

1-1-108. Substantive changes in text prohibited — Changes authorized — Effect of error in enrollment.

(a) In preparing the manuscript of the revised compilation (including pocket supplements and replacement volumes) for publication and distribution, the commission shall not alter the sense, meaning or effect of any act of the general assembly, but shall copy the exact language of the text of the statutes, codes and session laws of a public and general nature of the state of Tennessee, except that the commission is authorized to rearrange, regroup and renumber the titles, chapters, sections and parts of sections of the statutes, codes and code supplements and to change reference numbers to agree with any renumbered chapter or section; to change the wording of and prepare new section headings and symbols; to substitute the proper section or chapter reference where the terms “this act” or “the preceding section” or similar expressions are used in the statutes; to correct manifest misspelling and typographical errors and to change capitalization and spelling for the purpose of uniformity; to change references to governmental agencies, departments and officers when part or all of the powers, rights and/or duties of such agencies, departments or officers have, by an act of the general assembly, been transferred to other agencies, departments or officers; to omit enacting clauses, repealing clauses, severability clauses, conditional clauses, preambles, captions and statements declaring legislative intent; and to make other stylistic, nonsubstantive changes if such changes are consistent with style guidelines that have been approved by the commission and submitted to the judiciary committee of the senate and the judiciary committee of the house of representatives. Where the application or effect of a statute, by its terms, depends on the time when the act creating the statute took effect, the commission may substitute the actual effective date for the various forms of expression which mean that date — such as “when this act (or chapter, or section) takes effect,” or “after (or before) the effective date of this act (or chapter, or section).” No such change shall be deemed an alteration of or departure from the enrolled statute.

(b)(1) When the commission is advised by certificate of the secretary of state that a bill which is signed by the governor, or passed over the governor’s veto, or otherwise becomes a public act, differs, by reason of an error in the enrolling process or otherwise from such bill as passed on third reading by both houses of the general assembly, the commission will not compile the public act for codification, but will have a compiler’s note inserted in the manuscript of Tennessee Code Annotated, which compiler’s note shall set forth the facts revealed by the certificate received from the secretary of state in reference to such error.

(2) Nothing in this subsection (b) shall affect the powers granted the commission under subsection (a).

1-2-114. Reenactment of supplemental and replacement volume material into code.

(a) **Reenactment of the Acts of the 2019 Session of the General Assembly.**

(1) This compilation of laws together with the supplemental reenactments set out in subdivision (b)(1) shall be deemed amendatory.

(2) This compilation shall be deemed a reenactment of the general acts of a permanent nature enacted at the 2019 regular session of the general

assembly to the extent codified by the codification act. The sections so reenacted shall be construed as continuations of the previous laws so reenacted, and pending litigation, criminal prosecutions and statutes of limitations shall not be affected by such reenactments.

(3) Each section of this reenactment bearing the same number as a section appearing in the Tennessee Code as enacted in 1955 or in supplemental reenactments of the code is deemed to be in substitution for such section. Statutory references in any title, chapter, or section of the Tennessee Code shall be deemed to be references to the applicable provisions of law, and any change or rearrangements in numbering, division, or placement of the actual title, chapter, or section referred to shall not affect the validity of such references. Where only a portion of a section appears in this reenactment, such portion is deemed to be either in substitution of the same portion appearing in the Tennessee Code or supplemental reenactment or an addition to such section. Where section numbers of the Tennessee Code or supplemental reenactments are followed by “Repealed” or “Superseded”, they are deemed repealed unless limiting or restricting language follows the word “Repealed” or “Superseded”, in which latter event such repeal or supersession shall be limited or restricted in accordance with such language. Where section numbers of the Tennessee Code or supplemental reenactments are followed by “Unconstitutional” or are noted as having been found unconstitutional, this is reflective of a definitive court decision on the constitutionality of that section. Clauses, preambles, captions, statements of legislative intent, severability or reverse-severability clauses omitted from codification pursuant to § 1-1-108, remain valid in construing legislative intent of the codified portions of the act notwithstanding that the omitted portions of the act were not codified.

(4) All public acts of a general and permanent nature passed at the 2019 session of the general assembly, to the extent codified in the code, are repealed except those laws excepted by § 1-2-105 of the Tennessee Code.

(5) The enrolled draft of this reenactment shall, upon approval of this statute by the governor, be deposited in the office of the secretary of state, and shall be carefully preserved by that officer as an official reenactment of supplemental material to the Tennessee Code.

(6) All provisions of the Tennessee Code as enacted by chapter 6 of the Public Acts of 1955 and the supplemental reenactments set out in subdivision (b)(1) referring generally to such code, including the provisions of chapter 3 of this title, shall be likewise applicable to the sections of this reenactment and to prior supplemental reenactments.

(7) In case of any conflict between the acts of the 2020 session of the general assembly, or any extraordinary session occurring after the 2019 session of the general assembly, and this reenactment, the former shall be controlling regardless of the respective dates of passage or approval.

(8) All references and amendments in the acts of the 2020 session of the general assembly to code sections included in this reenactment shall be deemed to be references or amendments to provisions of law as stated in this reenactment.

(b) Reenactment of the Acts of the 1955 Through 2019 Session of the General Assembly.

(1)(A) The supplemental material enacted by chapter 1 of the Public Acts of 1959, chapter 1 of the Public Acts of 1961, chapter 1 of the Public

Acts of 1963, chapter 1 of the Public Acts of 1965, chapter 1 of the Public Acts of 1967, chapter 1 of the Public Acts of 1969, chapter 354 of the Public Acts of 1970, chapter 1 of the Public Acts of 1971, chapter 441 of the Public Acts of 1972, chapter 1 of the Public Acts of 1973, chapter 414 of the Public Acts of 1974, chapter 1 of the Public Acts of 1975, chapter 382 of the Public Acts of 1976, chapter 1 of the Public Acts of 1977, chapter 496 of the Public Acts of 1978, chapters 1 and 145 of the Public Acts of 1979, chapter 444 of the Public Acts of 1980, chapter 1 of the Public Acts of 1981, chapter 543 of the Public Acts of 1982, chapter 1 of the Public Acts of 1983, chapter 483 of the Public Acts of 1984, chapter 2 of the Public Acts of 1985, chapters 523 and 786 of the Public Acts of 1986, chapter 4 of the Public Acts of 1987, chapter 458 of the Public Acts of 1988, chapter 5 of the Public Acts of 1989, chapter 668 of the Public Acts of 1990, chapter 28 of the Public Acts of 1991, chapter 528 of the Public Acts of 1992, chapter 1 of the Public Acts of 1993, chapter 543 of the Public Acts of 1994, chapter 1 of the Public Acts of 1995, chapter 554 of the Public Acts of 1996, chapter 1 of the Public Acts of 1997, chapter 574 of the Public Acts of 1998, chapter 235 of the Public Acts of 1999, chapter 574 of the Public Acts of 2000, chapter 52 of the Public Acts of 2001, chapter 491 of the Public Acts of 2002, chapter 1 of the Public Acts of 2003, chapter 437 of the Public Acts of 2004, chapter 1 of the Public Acts of 2005, chapter 507 of the Public Acts of 2006, chapter 1 of the Public Acts of 2007, chapter 607 of the Public Acts of 2008, chapter 2 of the Public Acts of 2009, chapter 624 of the Public Acts of 2010, chapter 41 of the Public Acts of 2011, chapter 582 of the Public Acts of 2012, chapter 1 of the Public Acts of 2013, chapter 530 of the Public Acts of 2014, chapter 27 of the Public Acts of 2015, chapter 569 of the Public Acts of 2016, chapter 30 of the Public Acts of 2017, chapter 536 of the Public Acts of 2018 and chapter 1 of the Public Acts of 2019 shall be deemed amendatory of, supplemental to and become part of the Tennessee Code enacted as chapter 6 of the Public Acts of 1955.

(B) The supplemental material reenacted by chapters 450 and 802 of the Public Acts of 1980, by chapters 5 through 13 of the Public Acts of 1981, by chapters 2, 3, 6, and 7 of the Public Acts of 1983, by chapters 487 and 488 of the Public Acts of 1984, by chapters 4 through 6 of the Public Acts of 1985, by chapters 1 through 3 of the Public Acts of 2006, and chapters 1 through 4 of the Public Acts of 2010 shall be deemed amendatory of, supplemental to and become part of the Tennessee Code enacted as chapter 6 of the Public Acts of 1955.

(C) The material contained in replacement volumes 9A (1983 edition), 12A (1983 edition), 6 (1984 edition), 2 (1985 edition), 2A (1985 edition), 2B (1985 edition), 11 (1986 edition), 3A (1987 edition), 12A (1987 edition), 12B (1987 edition), 8 (1987 edition), 8B (1988 edition), 3 (1988 edition), 10 (1988 edition), 10A (1989 edition), 10B (1989 edition), 12 (1989 edition), 9 (1990 edition), 10C (1990 edition), 11 (1990 edition), 7A (1990 edition), 6A (1991 edition), 7 (1991 edition), 2A (1991 edition), 9A (1991 edition), 12A (1992 edition), 3A (1992 edition), 2B (1992 edition), 8A (1992 edition), 11A (1993 edition), 10 (1993 edition), 3 (1993 edition), 8 (1993 edition), 4 (1994 edition), 10A (1994 edition), 2 (1994 edition), 12 (1994 edition), 8B (1995 edition), 12B (1995 edition), 6A (1996 edition), 8A (1996 edition), 9 (1996 edition), 12A (1996 edition), 7 (1997 edition),

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(2) The supplemental reenactments set out in subdivision (b)(1) shall be deemed reenactments of the general acts of a permanent nature enacted at the sessions of the general assembly held in the years 1955 through 2019 which were codified therein. The sections so reenacted shall be construed as continuations of the previous laws so reenacted, and pending litigation, criminal prosecutions and statutes of limitations shall not be affected by such reenactments.

(3) Each section of the supplemental reenactments bearing the same number as a section appearing in the Tennessee Code as enacted in 1955 or in prior supplemental reenactments of the code is deemed to be in substitution for such section. Where only a portion of a section appears, such portion is deemed to be either in substitution of the same portion appearing in the Tennessee Code or prior supplemental reenactments or an addition to such section. Where section numbers of the Tennessee Code or supplemental reenactments are followed by “Repealed” or “Superseded”, they are deemed repealed unless limiting or restricting language follows the word “Repealed” or “Superseded”, in which latter event such repeal or supersession shall be limited or restricted in accordance with such language. Where section numbers of the Tennessee Code or supplemental reenactments are followed by “Unconstitutional” or are noted as

having been found unconstitutional, this is reflective of a definitive court decision on the constitutionality of that section. Clauses, preambles, captions, statements of legislative intent, severability or reverse-severability clauses omitted from codification pursuant to § 1-1-108, remain valid in construing legislative intent of the codified portions of the act notwithstanding that the omitted portions of the act were not codified.

(4) All public acts of a general and permanent nature, to the extent codified in this act and the supplemental reenactments set out in subdivision (b)(1), which were passed prior to the 2019 session of the general assembly and after the 1953 session are repealed, except chapters 6 and 121 of the Public Acts of 1955, all of the supplemental reenactments set out in subdivision (b)(1), and those laws excepted by § 1-2-105 of the Tennessee Code.

(5) The enrolled draft of each supplemental reenactment shall, upon approval of the statute by the governor, be deposited in the office of the secretary of state, and shall be carefully preserved by that officer as an official enactment of supplemental material to the Tennessee Code.

(6) Title 47 of the Tennessee Code as enacted by chapter 6 of the Public Acts of 1955, as amended and supplemented by chapter 1 of the Public Acts of 1961 and chapter 1 of the Public Acts of 1963, is repealed in its entirety except as provided in § 47-1-110 [repealed]; provided, that the sections appearing in title 47, chapters 11-15 in the reenactment by chapter 1 of the Public Acts of 1965 shall be construed as continuations of the similar sections appearing in the former title 47, and pending litigation, criminal prosecutions and statutes of limitation shall not be affected by such repeal and reenactment.

(7) In case any act or portion of an act codified and reenacted as provided in subdivision (b)(1) is thereafter deleted from this code for reasons other than repeal, supersession, or unconstitutionality, the original act or portion of an act so removed from the code shall be revived and continued in the same force and effect it had as a separate act prior to codification, notwithstanding any action occurring under the provisions of subsection (a).

(8) Legislative intent or effect which is dependent on the proposed placement of an act in the Tennessee Code shall not be affected by the actual codification of such material, and the general repealer contained in subdivision (a)(4) shall not affect such presumed intent.

1-3-122. References to committees of general assembly that no longer exist.

References in this code to committees of the general assembly that no longer exist due to rule change of either the senate or house of representatives are deemed to be references to the committee that has jurisdiction of the subject matter pursuant to the rules of the appropriate chamber.

2-2-142. Requirements for person or organization who conducts supplemental voter registration drive.

(a) A person or organization who has not been designated by the county election commission under § 2-2-111 and who conducts a supplemental voter registration drive in which the person or organization attempts to collect voter registration applications of one hundred (100) or more people must comply

with the following conditions:

(1) Prior to conducting a voter registration drive, the person or agent of an organization shall:

(A) Provide the coordinator of elections with the name, address, and contact phone number of the person conducting the voter registration drive or the names, addresses, and contact phone numbers of the officers of the organization conducting the voter registration drive;

(B) Provide the names of the county or counties in which the voter registration drives will be held;

(C) Complete training, which is administered by the coordinator of elections, on the laws and procedures governing the voter registration process;

(D) File a sworn statement stating that the person or organization shall obey all state laws and procedures regarding the registration of voters; and

(E) Ensure that individuals, whether volunteer or paid, who conduct voter registration drives for an organization have completed the training administered by the coordinator of elections; and

(2) The person or organization shall deliver or mail completed voter registration forms within ten (10) days of the date of the voter registration drive; provided, that if the date of the voter registration drive is within ten (10) days of the voter registration deadline, the completed forms must be delivered or mailed no later than the voter registration deadline.

(b) Any person or organization conducting a voter registration drive is prohibited from copying, photographing, or in any way retaining the voter information and data collected on the voter registration application, unless the applicant consents. However, the social security number provided on the voter registration application is confidential and must not be retained by any person other than election officials in their official capacity.

(c) No person or organization shall employ or compensate any person, nor shall any person receive any wages or compensation for registering voters based on the number of voters registered. Nothing in this section prohibits a person from being paid on an hourly or salaried basis to register voters.

(d) No person or organization shall establish quotas or a minimum number of completed voter registration forms to be collected by individuals conducting a voter registration drive.

(e) The coordinator of elections may adopt policies or procedures to effectuate the provisions of this section, including, but not limited to, a form on which the required information may be provided and certified by interested parties. The form adopted by the coordinator of elections may be provided electronically. The coordinator of elections shall, at a minimum, offer the training online and shall not charge a fee for the training.

(f) Any person who intentionally or knowingly violates any provision of this section commits a Class A misdemeanor and each violation constitutes a separate offense.

(g) This section does not apply to individuals who are not paid to collect voter registration applications or to organizations that are not paid to collect voter registration applications and that use only unpaid volunteers to collect voter registration applications.

2-2-143. Civil penalty for submission of incomplete voter registration applications.

(a) If any person or organization conducts voter registration drives under § 2-2-142 and, within a calendar year, files one hundred (100) or more incomplete voter registration applications with one (1) or more county election commissions, the person or organization is subject to a civil penalty under the procedures of this section.

(b) For purposes of this section, “incomplete voter registration application” means any application that lacks the applicant’s name, residential address, date of birth, declaration of eligibility, or signature. A person or organization who collects an application that only contains a name or initial is not required to file the application with the election commission.

(c)(1) The state election commission may impose a civil penalty for a violation of this section as provided in this subsection (c).

(2) The county election commission shall file notice with the state election commission, along with a copy of each voter registration application deemed to be incomplete and identifying information about the person or organization that filed the incomplete applications.

(3) The state election commission shall review each voter registration application presented by the county election commission and shall make a finding on the number of incomplete forms filed. Based on the finding, the state election commission may impose civil penalties for Class 1 and Class 2 offenses. The state election commission may combine the number of incomplete forms filed by a person or organization in multiple counties when determining the total number of incomplete forms filed.

(4) As used in this section:

(A) “Class 1 offense” means the filing of one hundred (100) to five hundred (500) incomplete voter registration applications. A Class 1 offense is punishable by a civil penalty of one hundred fifty dollars (\$150), up to a maximum of two thousand dollars (\$2,000), in each county where the violation occurred; and

(B) “Class 2 offense” means the filing of more than five hundred (500) incomplete voter registration applications. A Class 2 offense is punishable by a civil penalty of not more than ten thousand dollars (\$10,000) in each county where the violation occurred.

(5) For any offense, the state election commission shall send, by return mail, receipt requested, an assessment letter to the person or organization in a form sufficient to advise the person or organization of the factual basis of the violation, the maximum penalty and the date a response to the letter must be filed. Failure to timely claim an assessment letter sent by return mail, receipt requested, constitutes acceptance of the assessment letter.

(6) To request a waiver, reduction, or to in any way contest a penalty imposed by the state election commission, a person or organization shall file a petition with the state election commission. Such petition may be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) Penalties imposed under this section by the state election commission must be deposited into the general fund of the county or counties in which the violation occurred. When there are multiple counties involved, the penalty money must be divided pro rata based on the number of incomplete registra-

tion applications submitted in each county.

(e) This section does not apply to individuals who are not paid to collect voter registration applications or to organizations that are not paid to collect voter registration applications and that use only unpaid volunteers to collect voter registration applications.

(f) The state election commission may promulgate rules and procedures to implement this section.

2-3-302. Establishment of convenient voting centers.

(a) After the required approval of the project plan for the convenient voting centers, the county election commission may create a program that establishes convenient voting centers within the county pursuant to § 2-3-303 for local elections conducted in 2019, and for federal, state, and local elections held in 2020.

(b) If convenient voting centers are used in the election, the county election commission shall not be limited by the provisions set forth in § 2-3-101(a); provided, that no polling location may be changed within ten (10) days of an election except in an emergency.

(c) Each convenient voting center used in the pilot project shall have a secure electronic connection, certified by the coordinator of elections, to the computerized voter registration system maintained by the county election commission permitting all voting information processed by any computer at a convenient voting center to be immediately accessible to all other computers at all convenient voting centers in the county. The secure electronic connection shall be sufficient to prevent any voter from voting more than once and to prevent unauthorized access to the computerized voter registration system.

(d) Each convenient voting center shall meet applicable federal and state laws, including the accessibility requirements of the Help America Vote Act (42 U.S.C. § 15301).

(e) Chapter 7 of this title applies to all convenient voting centers.

(f) This part applies only in counties having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-four thousand six hundred (44,600), in counties having a population of not less than one hundred thirteen thousand nine hundred (113,900) nor more than one hundred fourteen thousand (114,000), and in counties having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census.

(g) Prior to closing a polling location due to the opening or availability of a convenient voting center, the county election commission shall announce a thirty-day period in which the commission shall receive public comment from registered voters regarding the closing of the polling location.

(h) If a polling location is closed due to the opening of a convenient voting center, the county election commission shall endeavor to ensure that convenient voting centers are located in locations convenient to voters who had been assigned to the closed polling location.

(i) If a polling location is closed due to the opening of a convenient voting center, the county election commission shall post signage on election day, and during the early voting period if that polling location was used as an early voting center, in a conspicuous manner on or near the entrances to the closed

polling location that states that the polling location is closed and that provides the address of each convenient voting center. The posting requirement must be met until after the next November statewide general election following the closure.

2-3-308. Establishment of convenient voting centers in county that conducted a pilot project.

(a) Any county in 2018 that conducted a pilot project under § 2-3-301 establishing convenient voting centers in the county and for which the coordinator of elections filed a favorable report under § 2-3-307 may create a program that establishes convenient voting centers in the county for federal, state, and local elections under the following conditions:

(1) For every ten thousand (10,000) registered voters, the county election commission shall locate at least one (1) convenient voting center; provided, that each county election commission shall locate at least two (2) convenient voting centers within a county. In determining the locations of the convenient voting centers, the county election commission shall consider the density of the county population, the geographic dividers, and all other facts and circumstances that exist within the county;

(2) Convenient voting centers shall be open for voting for a minimum of ten (10) continuous hours but no more than thirteen (13) hours. All convenient voting centers in the eastern time zone shall close at eight o'clock p.m. (8:00 p.m.), prevailing time, and convenient voting centers in the central time zone shall close at seven o'clock p.m. (7:00 p.m.) prevailing time;

(3) At least fifteen (15) days before the date of each election, the county election commission shall determine a uniform time for the opening of all convenient voting centers;

(4) Each convenient voting center used in the program shall have a secure electronic connection, certified by the coordinator of elections, to the computerized voter registration system maintained by the county election commission permitting all voting information processed by any computer at a convenient voting center to be immediately accessible to all other computers at all convenient voting centers in the county. The secure electronic connection must be sufficient to prevent any voter from voting more than once and to prevent unauthorized access to the computerized voter registration system;

(5) Each convenient voting center shall meet applicable federal and state laws, including the accessibility requirements of the Help America Vote Act (42 U.S.C. § 15301);

(6) Section 2-3-107 and chapter 7 of this title apply to all convenient voting centers;

(7) If convenient voting centers are used in the election, the county election commission is not limited by the provisions of § 2-3-101(a); provided, that no polling location may be changed within ten (10) days of an election, except in an emergency;

(b) Any county meeting the requirements of subsection (a) must mail notices to active registered voters only if the election commission designates convenient voting centers that differ from those used in the previous election cycle.

2-5-204. Placing of names on ballots — Withdrawal or disqualification of candidate — Death of candidate.

(a) Each qualified candidate's name shall be placed on the ballot as it appears on the candidate's nominating petitions unless the candidate dies before the ballots are printed, or unless the candidate requests in writing that the candidate's name not appear on the ballot and files the request with each of the officers with whom the candidate filed nominating petitions or to whom the candidate's nomination was certified as a political party nominee, or unless the executive committee with which a primary candidate filed the original petition determines that the candidate is not qualified under § 2-13-104.

(b)(1) A candidate's request to withdraw shall be filed no later than twelve o'clock (12:00) noon prevailing time on the seventh day after the qualifying deadline for the election. A candidate who qualifies pursuant to § 2-5-101(g)(1) or who is nominated pursuant to § 2-13-204(c) must file any request to withdraw no later than twelve o'clock (12:00) noon prevailing time on the third day after the qualifying deadline.

(2)(A) An executive committee that determines that a candidate is not qualified under § 2-13-104 shall file the committee's determination with the coordinator of elections no later than twelve o'clock (12:00) noon prevailing time on the seventh day after the qualifying deadline for the election. The coordinator of elections shall notify each county election commission on whose ballots the candidate's name would otherwise appear prior to the election commission printing the ballot.

(B) If an executive committee submits a candidate's name to be excluded from the ballot pursuant to subdivision (b)(2)(A), the executive committee shall provide the candidate written notice of the exclusion within two (2) days after submission. The executive committee shall mail the notice by certified mail, return receipt requested, or any form of expedited mail that requires a signature at receipt, to the residential address or the business address of the candidate as listed on the candidate's nominating petition. The executive committee shall retain the return receipts, or other documentation of timely notification, for a period of not less than one (1) year from the date the notification was sent. The candidate may appeal the determination in writing and must file the original appeal with the executive committee and a copy of the appeal with the coordinator of elections within two (2) days of receipt of the notice from the executive committee. Unless the coordinator of elections receives a letter from the executive committee withdrawing the committee's determination of the candidate's disqualification no later than the close of business seven (7) days after the original withdrawal deadline, the candidate's name must be excluded from the ballot. The executive committee may file the withdrawal letter with the coordinator of elections by fax, email, hand delivery, or through a priority mail process.

(C) The appeal process described in subdivision (b)(2)(B) does not apply to a special primary or special general election to fill the vacancy for members of the general assembly or the office of representatives in congress.

(c) If no less than four (4) members of the county election commission vote in the affirmative that a candidate's name on the ballot would be confusing or misleading, the county election commission may require further identifying

information or may omit any confusing or misleading portion of the name. In an election where the candidate's name will appear on the ballot in more than one (1) county, this authority shall rest with the state election commission.

(d) No titles may be printed with the candidate's name.

(e) If a candidate dies within forty (40) days before the election, the decedent's name shall remain on the ballot. If the deceased candidate receives the necessary votes to otherwise be elected, then a vacancy shall exist. The vacancy shall be filled as otherwise provided for by law.

2-6-105. Voter assistance — Assistance by person convicted of voter fraud prohibited.

(a) Persons voting early are entitled to the same assistance in voting they would be entitled to if they appeared to vote on election day. The procedures under § 2-7-116 govern how assistance should be given.

(b) Notwithstanding subsection (a), a person convicted of voter fraud in any state shall not assist a person in voting under this section.

2-6-106. Voter unable to write signature or make mark — Assistance by person convicted of voter fraud prohibited.

(a) If an applicant or voter is so disabled that the applicant or voter cannot write a signature or make a mark where required, the action of the person who offers assistance shall be witnessed by one (1) additional person. Both the person giving assistance and the witness shall sign their names and provide their addresses.

(b) Notwithstanding subsection (a), a person convicted of voter fraud in any state shall not assist a person in voting under this section.

2-6-207. Assistance by person convicted of voter fraud prohibited.

Notwithstanding any law to the contrary, a person convicted of voter fraud in any state shall not assist a person in voting by absentee ballot.

2-7-104. Poll watchers.

(a) Each political party and any organization of citizens interested in a question on the ballot or interested in preserving the purity of elections and in guarding against abuse of the elective franchise may appoint poll watchers. The county election commission may require organizations to produce evidence that they are entitled to appoint watchers. Each candidate in primary elections and each independent candidate in general elections may appoint one (1) or more poll watchers for each polling place; provided, however, at any given time, each such candidate shall have not more than one (1) such poll watcher on duty at each polling place. All appointments of watchers shall be in writing and signed by the persons or organizations authorized to make the appointment. All poll watchers' names shall be submitted to the county election commission no later than twelve o'clock (12:00) noon of the second working day before the election. All appointed poll watchers must have reached seventeen (17) years of age by election day and be residents of this state. A spouse of a candidate on the ballot shall not be eligible for appointment as a poll watcher.

(b) Each political party which has candidates in the election and each citizens' organization may have two (2) watchers at each polling place. One (1)

of the watchers representing a party may be appointed by the chair of the county executive committee of the party and the other by a majority of the candidates of that party running exclusively within the county in which the watchers are appointed. If the candidates of a party fail to appoint the watchers by twelve o'clock (12:00) noon on the third day before the election, the chair of the county executive committee of the party may appoint both watchers representing the chair's party. In addition, each candidate in a general election may appoint one (1) or more poll watchers for each polling place; provided, however, at any given time, each such candidate shall have not more than one (1) such poll watcher on duty at each polling place.

(c) Upon arrival at the polling place, a watcher shall display such watcher's appointment to the officer of elections and sign the register of watchers. Poll watchers may be present during all proceedings at the polling place governed by this chapter. They may watch and inspect the performance in and around the polling place of all duties under this title. A watcher may, through the judges, challenge any person who offers to vote in the election. A watcher may also inspect all ballots while being called and counted and all tally sheets and poll lists during preparation and certification. A poll watcher who wishes to protest any aspect of the conduct of the election shall present such protest to the officer of elections or to the county election commission or to an inspector. The officer of elections or county election commission shall rule promptly upon the presentation of any protest and take any necessary corrective action.

(d) No watcher may interfere with any voter in the preparation or casting of such voter's ballot or prevent the election officials' performance of their duties. No watcher may observe the giving of assistance in voting to a voter who is entitled to assistance. Watchers shall wear poll watcher badges with their names and their organization's name but no campaign material advocating voting for candidates or positions on questions.

(e) Poll watchers observing the duties of the absentee counting board shall not leave the room, or place of counting, after the actual counting of the ballots has begun. Poll watchers observing the duties of the absentee counting board are prohibited from possessing any electronic device, including a cellular telephone or pager, capable of transmitting election results to a location outside the room where the ballots are being tabulated.

2-7-111. Posting of sample ballots and instructions — Arrangement of polling place — Restrictions.

(a) The officer of elections shall have the sample ballots, voting instructions, and other materials, which are to be posted, placed in conspicuous positions inside the polling place for the use of voters. The county election commission shall designate entrances to the building in which the election is to be held that are for the use of voters. The officer shall measure off one hundred feet (100') from the designated entrances and place boundary signs at that distance.

(b)(1) Within the appropriate boundary as established in subsection (a), and the building in which the polling place is located, the display of campaign posters, signs or other campaign materials, distribution of campaign materials, and solicitation of votes for or against any person, political party, or position on a question are prohibited. No campaign posters, signs or other campaign literature may be displayed on or in any building in which a polling place is located.

(2) Except in a county with a population of not less than eight hundred twenty-five thousand (825,000) nor more than eight hundred thirty thousand (830,000) according to the 1990 federal census or any subsequent federal census, a solicitation or collection for any cause is prohibited. This does not include the normal activities that may occur at such polling place such as a church, school, grocery, etc.

(3) Nothing in this section shall be construed to prohibit any person from wearing a button, cap, hat, pin, shirt, or other article of clothing outside the established boundary but on the property where the polling place is located.

(c) The officer of elections shall have each official wear a badge with that official's name and official title.

(d) With the exception of counties having a metropolitan form of government, any county having a population over six hundred thousand (600,000) according to the 1970 federal census or any subsequent federal census, and counties having a population of between two hundred fifty thousand (250,000) and two hundred sixty thousand (260,000) by the 1970 census, any county may, by private act, extend the one hundred foot (100') boundary provided in this section.

2-7-116. Assistance to disabled, illiterate or blind voters — Certified record — Assistance by person convicted of voter fraud prohibited.

(a)(1) A voter who claims, by reason of illiteracy or physical disability other than blindness, to be unable to mark the ballot to vote as the voter wishes and who, in the judgment of the officer of elections, is so disabled or illiterate, may:

(A) Where voting machines are used, have the ballot marked on a voting machine or on a paper ballot subject to the provisions of § 2-7-117 by any person of the voter's selection, or by one of the judges of the voter's choice in the presence of either a judge of a different political party or, if such judge is not available, an election official of a different political party; or

(B) Where voting machines are not used, have the ballot marked by any person of the voter's selection or by one of the judges of the voter's choice in the presence of either a judge of a different political party or, if such judge is not available, an election official of a different political party.

(2) The officer of elections shall keep a record of each such declaration, including the name of the voter and of the person marking the ballot and, if marked by a judge, the name of the judge or other official in whose presence the ballot was marked. The record shall be certified and kept with the poll books on forms to be provided by the coordinator of elections.

(b)(1) A voter who claims, by reason of blindness, to be unable to mark the ballot to vote as the voter wishes and who, in the judgment of the officer of elections, is blind, may:

(A) Where voting machines are used, have the ballot marked on a voting machine or on a paper ballot subject to the provisions of § 2-7-117 by any person of the voter's selection or by one of the judges of the voter's choice in the presence of either a judge of a different political party or, if such judge is not available, an election official of a different political party; or

(B) Where voting machines are not used, have the ballot marked by any person of the voter's selection or by one of the judges of the voter's choice in the presence of either a judge of a different political party or, if such judge is not available, an election official of a different political party.

(2) The officer of elections shall keep a record of each such declaration, including the name of the voter and of the person marking the ballot and, if marked by a judge, the name of the judge or other official in whose presence the ballot was marked. The record shall be certified and kept with the poll books on forms to be provided by the coordinator of elections.

(c)(1) A voter, who is physically disabled or who is visibly pregnant or frail, may request the officer of elections at the polling place for permission to be moved to the front of any line. In accordance with policies and procedures promulgated by the state coordinator of elections and at the discretion of the officer of elections, the requesting voter may be moved to the front of any line at the polling place.

(2) A temporary sign, restating the language of subdivision (c)(1), shall be prominently and strategically posted at the polling place whenever voting is underway at the polling place.

(d) Notwithstanding this section or any other law to the contrary, a person convicted of voter fraud in any state shall not assist a person in casting a vote.

2-7-133. Ballots which may be counted.

(a) Only ballots provided in accordance with this title may be counted. The judges shall write "Void" on others and sign them.

(b) If the voter marks more names than there are persons to be elected to an office, or if for any reason it is impossible to determine the voter's choice for any office to be filled or on a question, the voter's ballot shall not be counted for such office and shall be marked "Uncounted" beside the office and be signed by the judges. It shall be counted so far as it is properly marked or so far as it is possible to determine the voter's choice.

(c) If two (2) ballots are rolled up together or are folded together, they shall not be counted. The judges shall write on them "Void" and the reason and sign them.

(d) Any ballot marked by the voter for identification shall not be counted. The judges shall write on it "Void" and the reason and sign it.

(e) Ballots which are not counted shall be kept together and shall be bundled separately from the ballots which are counted.

(f) [Deleted by 2019 amendment.]

(g) Notwithstanding any other provision of law to the contrary, if a voter marks a paper or optical scan ballot with a cross, "x", checkmark or any other appropriate mark within the square, circle or oval to the right of the candidate's name, or any place within the space in which the name appears, indicating an intent to vote for that candidate, it is a vote for the candidate whose name it is opposite. Underlining or circling the candidate's name would also constitute a vote. Any apparent erasure of a mark next to the name of a candidate may not be counted as a vote for that candidate if the voter makes another mark next to the name of one (1) or more different candidates for the same office and counting of the mark would result in an excess number of votes cast for the office.

(h) If a voter casts more than one (1) vote for the same candidate for the

same office, the first vote is valid and the remaining votes are invalid.

(i)(1) Any person attempting to be elected by write-in ballots shall complete a notice requesting such person's ballots be counted in each county of the district no later than twelve o'clock (12:00) noon, prevailing time, fifty (50) days before the general election. Such person shall only have votes counted in counties where such notice was completed and timely filed. The notice shall be on a form prescribed by the coordinator of elections and shall not require signatures of any person other than the write-in candidate requesting ballots be counted. The coordinator of elections shall distribute such form to the county election commissions. Upon timely receiving the notice required by this subsection (i), the county election commission shall promptly inform the state coordinator of elections, the registry of election finance, as well as all other candidates participating in the affected election. A write-in candidate may withdraw the notice by filing a letter of withdrawal in the same manner as the original notice was filed no later than the fifth day before the election.

(2) A candidate defeated in a primary election shall not complete a notice requesting write-in ballots to be counted in the general election under subdivision (i)(1), and any write-in votes cast for the candidate in the general election must not be counted.

**2-9-118. Prohibited acts by voting systems vendor or vendor's agent —
Prohibited solicitation or acceptance by election officials.**

(a) An agent of a voting systems vendor or any person acting on behalf of a voting systems vendor shall not offer or attempt to offer anything of value to a state election commission member; county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons.

(b) An agent of a voting systems vendor shall not knowingly make or cause to be made any false statement or misrepresentation of the facts concerning any matter for which the voting systems vendor is responsible to a state election commission member; county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; or an employee of the state election commission, the county election commission, or the secretary of state.

(c) A state election commission member; county election commission member; secretary of state; coordinator of elections; administrator of elections; employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, shall not solicit or accept anything of value in violation of subsection (a).

(d) A voting systems vendor shall not make a loan of money to a state election commission member; a county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, or to any other person on such person's behalf.

(e) A state election commission member; county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such

persons, shall not solicit or accept a loan in violation of subsection (d).

(f) An agent of a voting systems vendor or any person acting on behalf of a voting systems vendor shall not permit a state election commission member; a county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, to use the credit or a credit card of the voting systems vendor.

(g) An agent of a voting systems vendor or any person acting on behalf of a voting systems vendor shall not pay the lodging expenses of a state election commission member; a county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons.

(h) A state election commission member; county election commission member; the secretary of state; coordinator of elections; administrator of elections; employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, shall not accept travel expenses, meals, or lodging paid by a voting systems vendor or agent of the voting systems vendor.

(i) An agent of a voting systems vendor or any person acting on behalf of a voting systems vendor shall not provide a gift, directly or indirectly, to a state election commission member; a county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, county election commission, or the secretary of state; or an immediate family member of such persons, unless the gift is a novelty, such as a pin, button, pen, or similar small item or token routinely given to customers, suppliers, or potential customers or suppliers in the ordinary course of business.

2-10-121. Registration fee for political campaign committees.

No later than January 31 of each year, each multicandidate political campaign committee registered with the registry of election finance shall pay a registration fee to be determined by rule promulgated pursuant to § 4-55-103(1). Payment of the registration fee by one (1) affiliated political campaign committee includes any disclosed affiliated committees registering separately; payment of the registration fee by a statewide political party, as defined in § 2-1-104, includes any disclosed subsidiaries of the political party registering separately. For any multicandidate political campaign committee registering a new committee during any year, the committee shall pay the appropriate registration fee at the time that it certifies its political treasurer. All fees collected under this section shall be retained and used for expenses related to maintaining an electronic filing system.

2-10-203. Registry of election finance — Creation — Appointments — Qualifications — Administration.

(a)(1) There is created as a division of the bureau of ethics and campaign finance, as provided in title 4, chapter 55, a Tennessee registry of election finance. The registry shall be composed of six (6) members appointed as provided in this section.

(2) Appointments shall be made to reflect the broadest possible representation of Tennessee citizens. Of the six (6) members appointed, at least one (1) shall be a female and one (1) shall be black. However, a black female shall not satisfy the requirement of one (1) female and one (1) black. Each member shall have been a legal resident of this state for five (5) years immediately preceding selection. Members shall be at least thirty (30) years of age, registered voters in Tennessee, not announced candidates for public office, not members of a political party's state executive committee, shall not have been convicted of an election offense, and shall be persons of high ethical standards who have an active interest in promoting fair elections. Gubernatorial appointees shall be subject to confirmation by joint resolution of the general assembly. Such appointees shall have full power to serve until any vote of nonconfirmation.

(b) The members of the registry of election finance shall also serve as members of the board of directors of the bureau of ethics and campaign finance.

(c) Members of the registry shall be selected for staggered five-year terms as follows:

(1) The governor shall appoint two (2) members. One (1) member shall be appointed from a list of three (3) nominees submitted by the state executive committee of the majority party. One (1) member shall be appointed from a list of three (3) nominees submitted by the state executive committee of the minority party. The governor's solicitations and the replies shall be public records. The governor shall give due consideration to such nominations. The governor may request a second list of nominees; provided, however, no nominees from the original list of nominees may appear on the second list of nominees.

(2) The senate shall appoint two (2) members, with one (1) member to be chosen by the members of the senate democratic caucus and one (1) member to be chosen by the members of the senate republican caucus; and

(3) The house of representatives shall appoint two (2) members, with one (1) member to be chosen by the members of the house of representatives democratic caucus and one (1) member to be chosen by the members of the house of representatives republican caucus.

(d) Vacancies shall be filled in the same manner as the vacating member's office was originally filled.

(e) The registry shall elect a chair from among its appointed membership. The chair shall serve in that capacity for one (1) year and shall be eligible for reelection. The chair shall preside at all meetings and shall have all the powers and privileges of the other members.

(f) The registry shall fix the place and time of its regular meetings by order duly recorded in its minutes. No action shall be taken without a quorum present. Special meetings shall be called by the chair on the chair's initiative or on the written request of four (4) members. Members shall receive seven (7) days' written notice of a special meeting, and the notice shall specify the purpose, time and place of the meeting, and no other matters may be considered, without a specific waiver by all the members.

(g) The members of the registry shall receive no compensation; provided, that each member of the registry shall be eligible for reimbursement for expenses and mileage in accordance with the regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(h) No member of the registry or such member's immediate family, as

defined in § 3-6-301, shall, during registry membership:

- (1) Be allowed to hold or qualify for elective office to any state or local public office, as defined in § 2-10-102;
 - (2) Be an employee of the state or any political subdivision of the state;
 - (3) Be an officer of any political party or political committee;
 - (4) Permit such person's name to be used or make campaign contributions in support of or in opposition to any candidate or proposition, except that a member's immediate family may make campaign contributions in support of or in opposition to any candidate or proposition;
 - (5) Participate in any way in any election campaign;
 - (6) Lobby or employ a lobbyist; or
 - (7) Be employed by any elected officeholder, either in an official capacity or as an individual, or be employed by any business in which an elected officeholder has any direct input concerning employment decisions.
- (i) An incumbent member of the registry may seek votes for confirmation of the member's appointment to the registry; provided, that the member shall comply with the provisions of subsection (h).
- (j) [Deleted by 2019 amendment.]
- (k)(1) Every member of the registry of election finance shall, before they proceed to business, take an oath or affirmation to support the constitution of this state and of the United States and the laws of this state and also the following oath:
- "I _____ do solemnly swear (or affirm) that as a member of this registry of election finance, I will, in all matters, vote without favor, affection, partiality, or prejudice; and that I will not propose or assent to any action, measure, or resolution which shall appear to me to be contrary to law."
- (2) Unless otherwise provided by law, any member of the registry who violates the oath of office for that position or participates in any of the activities prohibited by this chapter commits a Class A misdemeanor. If a sworn allegation is made that a member has violated the oath of office for the member's position or has participated in any of the activities prohibited by this chapter, then upon a unanimous vote of the remaining members, the member against whom the sworn allegation is made may be suspended from the registry for such purposes and for such times as the remaining members shall unanimously determine, but no suspension shall extend beyond final disposition of the sworn allegation. The accused member shall not participate in the suspension vote. If a member of the registry is found guilty of or pleads guilty or nolo contendere to a violation of the oath of office for the member's position or participates in any of the activities prohibited by this chapter, then that member shall be deemed to be removed from office.

2-11-113. Removal of member by general assembly.

The general assembly, by joint resolution, may remove a member of the state election commission for cause and may remove a member who becomes unqualified.

2-12-101. Commissioners — Appointment — Removal — Legal representation.

(a) The state election commission shall appoint, on the first Monday in April of each odd-numbered year, five (5) election commissioners for each county, for terms of two (2) years and until their successors are appointed and qualified.

The five (5) commissioners shall be the county election commission.

(b) The state election commission shall remove a commissioner who becomes unqualified and may remove or otherwise discipline a commissioner for cause.

(c) County election commissions shall be represented in legal proceedings as follows:

(1) If the legal proceeding names the county election commissioners as defendants and the lawsuit involves a municipal election, the municipality concerned shall furnish counsel to represent the commissioners;

(2) If the election involved in the legal proceedings is that of a county election, the county shall furnish counsel for the commissioners and if the election involved in the legal proceedings attacks a state law or presents a question concerning a state or federal election, the attorney general and reporter shall represent the commissioners either by the attorney general and reporter's own staff or by such counsel as the attorney general and reporter may designate;

(3) The counsel furnished, whether by municipality or county, shall be that chosen by the election commission unless the commission carries an insurance policy providing coverage of claims asserted in a lawsuit, in which case the provisions of the insurance policy control with respect to representation of the commission; and

(4) If, in order to properly discharge its duties, the county election commission has to bring legal action against a county or municipality, the compensation for the commission's legal representation shall be borne by the county or municipality, as the case may be.

(d) The county election commission created by this section is the immediate successor to the commissioners of elections for each county. Wherever in the Tennessee Code the commissioners of elections for counties are referred to, the term "county election commission" shall be substituted.

2-12-109. Expenses.

(a)(1) Except as otherwise provided by law, it is the responsibility of the county to fund the operations of its election commission. If a county fails to appropriate funds sufficient to pay expenses that are reasonably necessary for the discharge of the statutorily mandated duties of its county election commission, such commission may petition the chancery court of the county in which such election commission is located to compel the appropriation of such funds.

(2) If the county carries an insurance policy for the county election commission, its employees, or its election officials, the election commission shall comply with the terms of the insurance policy with respect to expenses covered by the policy.

(b) All expenses, including compensation of its employees and election officials, incurred by the county election commission or its members in the performance of duties under this title in holding municipal elections shall be paid out of the funds of the municipality upon the certification of the chair and secretary of the county election commission except as otherwise expressly provided. If a municipal election is held on the same day as a county-wide election, the municipality shall pay only the expenses caused by the municipal election which would not otherwise have been incurred in conducting the

county-wide election as certified by the chair and secretary of the county election commission. If, after a legal proceeding involving a municipal election, the court finds that a subsequent election must be held due to an error committed by the county election commission, then the county shall pay the expenses of the subsequent election, unless the court finds that the county election commission's error resulted from the county election commission's reliance on information provided by the municipality.

(c) If a special election is held for the sole purpose of choosing a member of the general assembly under § 2-14-202(b), all expenses, including compensation of its employees and election officials, incurred by a county election commission or its members in the performance of duties under this title shall be paid out of the state treasury upon the certification of the chair and secretary of the county election commission to the secretary of state; provided, that the secretary of state shall review the claim for expenses and only those items certified by the secretary of state to the comptroller of the treasury shall be paid.

(d) All expenses, including compensation of its employees and election officials, incurred by a county election commission or its members in the performance of its duties under this title in connection with the presidential preference primary shall be paid out of the state treasury upon the certification of the chair and secretary of the county election commission to the secretary of state; provided, that the secretary of state shall review the claim and only those items certified by the secretary of state to the comptroller of the treasury shall be paid. In years in which a presidential preference primary will be held, if a political party elects to hold their county primary with the presidential preference primary, then all expenses of the county primary shall likewise be borne by the state upon certification as set forth in this subsection (d).

2-14-202. Time of election — Vacancy in state senate.

(a) If twelve (12) months or more remain prior to the next regular election for members of the general assembly, the governor shall, by writs of election, order a special election to fill such vacancy.

(b)(1) The governor shall, by writs of election, set a date not less than fifty-five (55) nor more than sixty (60) days from the date of the writs for primary elections for nominations by statewide political parties to fill the vacancy and shall, by the same writs of election, set a date of not less than one hundred (100) nor more than one hundred seven (107) days from the date of the writs for a general election to fill the vacancy.

(2) Candidates for the primary elections and independent candidates for the general election shall qualify as required in regular elections but shall file qualifying petitions no later than twelve o'clock (12:00) noon prevailing time on the sixth Thursday before the day of the primary elections. Any candidate wishing to withdraw shall do so before twelve o'clock (12:00) noon, prevailing time, on the fourth day after the qualifying deadline.

(3) Except where this subsection (b) makes different provisions, part 1 of this chapter shall govern elections required by this subsection (b). The state primary boards shall perform their duties under chapter 8 of this title with respect to primaries held under this subsection (b) as quickly as practicable.

(c)(1) If it is necessary to hold a special election to fill a vacancy in the membership of the general assembly, and the date for such election, as

established under subsection (b), falls within thirty (30) days of a regular primary or general election being held in the legislative district, or alternatively falls within thirty (30) days of a municipal election being held in an odd-numbered year in a legislative district which is contained entirely within the boundaries of such municipality, the governor may issue the writ of election for the special election for the date which will coincide with the regular primary, general or municipal election.

(2) If the date of the election is adjusted, as provided herein, all other dates dependent on the date of the election shall be adjusted accordingly, and any filing of candidacy, qualifying petitions, financial statements, or other acts shall be timely done if performed in accordance with the revised dates. (d)(1) If a vacancy occurs in the state senate in a seat with more than two (2) years remaining in the term, but less than twelve (12) months before the next general election for members of the general assembly, candidates for the primary elections and independent candidates shall qualify at the regular qualifying deadline for state elections.

(2) If a vacancy as described in subdivision (d)(1) occurs after the seventh day before the regular qualifying deadline for statewide offices, candidates for the primary elections and independent candidates shall file the necessary qualifying petitions before twelve o'clock (12:00) noon, prevailing time, on the sixth Thursday before the day of the primary election. Any candidate wishing to withdraw shall do so before twelve o'clock (12:00) noon, prevailing time, on the fourth day after the qualifying deadline.

(3) If a vacancy as described in subdivision (d)(1) occurs after the sixth Thursday before the primary election, then the members of the county executive committees who reside within the senate district may nominate a candidate to appear on the November election ballot by any method authorized under the rules of the party; provided, however, if no member of the county executive committee resides within the senate district, then the members of the county executive committees who represent precincts within the senate district may nominate a candidate. If a vacancy as described in subdivision (d)(1) occurs after the sixth Thursday before the primary election in any county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census, then the members of the county executive committees who represent the precincts composing such senate district may nominate a candidate to appear on the November election ballot by any method authorized under the rules of the party. The procedure to be followed by an executive committee shall be the same as set forth in § 2-13-204(b)(4). Persons so chosen shall be certified to every county election commission wholly or partially in the district by twelve o'clock (12:00) noon, prevailing time, on the forty-fifth day prior to the regular November election. Independent candidates shall qualify by filing petitions as provided for in § 2-5-104 by twelve o'clock (12:00) noon, prevailing time, on the forty-fifth day prior to the regular November election. Any candidate wishing to withdraw shall do so before twelve o'clock (12:00) noon, prevailing time, on the fourth day after the qualifying deadline.

(4)(A) If a vacancy as described in subdivision (d)(1) occurs within forty-five (45) days of the next general election for legislators, members of the county executive committees who represent the precincts composing such senate district may nominate a candidate to appear on a separate

November election ballot by any method authorized under the rules of the party within forty-eight (48) hours of notice of the vacancy; provided, however, that any notice requirement under a party's rules in nominating a candidate shall be waived in order to meet the forty-eight-hour deadline. Any recognized minor party that does not have a county executive committee may nominate candidates by caucus or by state executive committee. Persons so chosen shall be certified to every county election commission wholly or partially in the district by twelve o'clock (12:00) noon, prevailing time, within forty-eight (48) hours of being nominated. Certification of the candidates to the affected county election commissions may be transmitted by email. Independent candidates shall be issued nominating petitions immediately upon notice of the vacancy and shall qualify by filing such petitions as provided for in § 2-5-104 by twelve o'clock (12:00) noon, prevailing time, on the same deadline for the certification of the political party candidates. The publication requirements of the qualifying deadline and of the election day sample ballot shall be met by the county election commission posting the same on its website or, if the county election commission does not have or maintain a website, on the website maintained by the secretary of state. No other notices of this election shall be required.

(B) Any election held pursuant to subdivision (d)(4)(A) shall not be subject to early voting provisions in § 2-6-102.

(C) The county election commission shall allow any person, who did vote early for the November election, to additionally cast a ballot in person on election day for any state senate election held pursuant to subdivision (d)(4)(A).

2-19-132. Disclaimer required for public communication regarding voter registration status, website for voter registration purposes, and voter lookup website. [Effective on October 1, 2019.]

(a)(1) A public communication regarding voter registration status made by a political committee or organization must display a disclaimer that such communication is not made in conjunction with or authorized by the secretary of state.

(2) As used in this subsection (a), "public communication" includes communications made using newspapers or magazines, mass mailings, phone bank or text messages, electronic mail systems, or websites.

(b)(1) A person or organization that establishes a website for voter registration purposes must display on such website a disclaimer that the voter registration is not made in conjunction with or authorized by the secretary of state.

(2) A person or organization that establishes a voter registration website and captures or collects the voter's information or data must disclose on the website the person's or organization's name and the purpose for which the voter information is captured or collected.

(3) Voter registration includes any method by which a voter may attempt to register to vote or change information on an existing voter registration.

(c)(1) A person or organization that establishes a voter lookup website must display on such website a disclaimer that the voter lookup is not made in

conjunction with or authorized by the secretary of state.

(2) A person or organization that establishes a voter lookup website and captures or collects the voter's information or data must disclose on the website the person's or organization's name and the purpose for which the voter information is captured or collected.

(3) Voter lookup includes any method by which a voter may check the voter's registration status or polling location.

(d) The disclaimer must be clear and conspicuous and prominently placed. A disclaimer is not clear and conspicuous if it is difficult to read or hear, or if its placement can be easily overlooked.

(e) Any person who intentionally and knowingly violates any provision of this section commits a Class A misdemeanor and each violation constitutes a separate offense.

(f) This section does not apply to a county election commission website.

3-1-123. Filing of report with legislative reference and law library and office of the speaker of the house of representatives.

(a) If a statute requires an official or entity to make a report to the general assembly, the speakers of the general assembly, a committee of the general assembly, or any combination thereof, then a copy of the report shall also be filed with the legislative reference and law library.

(b) In addition to the filing requirement in subsection (a), if a statute requires an official or entity to make a report to the general assembly, the house of representatives, a committee of the house of representatives, or any combination thereof, then the official or entity must also file a copy of the report with the office of the speaker of the house of representatives.

3-2-107. Fiscal notes for revenue bills — Cumulative fiscal notes during session — Comparison of actual fiscal impact — Written summary.

(a)(1) Fiscal notes shall be provided for all general bills or resolutions increasing or decreasing state or local revenues, making sum-sufficient appropriations, or increasing or decreasing existing appropriations or the fiscal liability of the state or of the local governments of the state. Upon a standing committee of either house placing such bill or resolution on the committee's calendar for action, the fiscal review committee shall furnish to the chief clerk of the house or houses of introduction a statement of analysis of the fiscal effect of such bill or resolution and shall prepare and distribute copies of the statement to members of the general assembly. Within twenty-four (24) hours following a request by the sponsor of an amendment to any pending measure on which a fiscal note is required by this section, the fiscal review committee shall prepare for the sponsor a fiscal note showing what effect the amendment would have on the estimates made in the fiscal note which applies to the bill or resolution. In regard to any bill or resolution affecting local government, the office of the comptroller of the treasury is directed to provide to the fiscal review committee, upon request, the information necessary to determine the fiscal effect of such bill or resolution.

(2)(A) The fiscal note shall, if possible, include an estimate in dollars of the anticipated change in revenue, expenditures, or fiscal liability under the provisions of the bill or resolution. It shall also include a statement as

to the immediate effect and, if determinable or reasonably foreseeable, the long-range effect of the measure. If, after careful investigation, it is determined that no dollar estimate is possible, the note shall contain a statement to that effect, setting forth the reasons why no dollar estimate can be given. The fiscal note statement shall include an explanation of the basis or reasoning on which the estimate is founded, including any assumptions involved.

(B)(i) The fiscal note shall also include a statement as to the immediate effect and, if determinable or reasonably foreseeable, the long-range effect on commerce and jobs in this state. Such impact to commerce statement shall also include, if possible, an estimate in dollars of the anticipated change in costs or savings to commerce under the bill or resolution.

(ii) Beginning January 1, 2014, impact to commerce statements shall be required for general bills or resolutions referred to the following standing committees:

- (a) Commerce committee of the house of representatives;
- (b) Insurance committee of the house of representatives; and
- (c) Commerce and labor committee of the senate.

(3) No comment or opinion shall be included in the fiscal note regarding the merits of the measure for which the note is prepared; however, technical or mechanical defects may be noted.

(b) A cumulative fiscal note shall be prepared weekly by the fiscal review committee and a copy shall be distributed to each member of the general assembly each week while the general assembly is in session. The cumulative fiscal note shall show the cumulative increase or decrease of revenue or expenditures as caused by legislation enacted from the beginning of the session then convened.

(c)(1) Within ninety (90) days after the conclusion of each annual regular legislative session, the fiscal review committee staff shall select a fair and representative sample of at least five (5) public chapters enacted within the preceding five (5) years and compare the actual fiscal impact of each public chapter to the fiscal impact as stated in the cumulative fiscal note.

(2) Upon completing the review, the fiscal review committee staff shall present the results of this review to the fiscal review committee at a meeting of the committee. The committee may also invite testimony from other witnesses, including representatives of executive departments and agencies affected by the bill. A written summary of the results of such review shall be provided to each member of the general assembly each year.

3-5-101. Creation — Purpose — Staff — Duties.

(a) On May 15, 2018, there is created the “Tennessee civil rights crimes information, reconciliation, and research center” within the office of minority affairs created by Senate Joint Resolution No. 61 of the Public Acts of 1981.

(b) The Tennessee civil rights crimes information, reconciliation, and research center shall serve as a civil rights crimes remembrance and reconciliation repository, function as an informational clearinghouse on unsolved civil rights crimes and cold cases in this state, and coordinate volunteer activities throughout the state pertinent to the mission and duties of the center.

(c) The staff of the office of minority affairs shall also serve as staff for the Tennessee civil rights crimes information, reconciliation, and research center.

The duties of the center shall include:

- (1)(A) Conducting a statewide survey of civil rights crimes in Tennessee, both solved and unsolved, by utilizing available volunteer resources. In designating volunteers and volunteer coordinators to conduct the survey, the director shall utilize the services of public and private sector institutions, including, but not limited to, the various Tennessee schools of law, universities and colleges, including the historically black universities and colleges such as Lemoyne-Owen, Lane, Fisk, Meharry, and Tennessee State, as well as private sector groups such as Tennesseans for Historical Justice;
- (B) The director shall have the authority to design and distribute the survey to the volunteer coordinators to ensure to the extent possible that the results will be uniform from county to county, designate volunteers and volunteer coordinators in participating geographic areas, act as a central coordinator to prevent duplicative and inconsistent results, catalogue and compile the results of the survey, and transmit the results of the survey in the report required by subdivision (c)(9);
- (2) Determining if any information submitted in the survey described in subdivision (c)(1), or by any other method the director acquires information, may still be subject to possible criminal prosecution and transferring any such information to the appropriate state and local law enforcement agencies, district attorneys general, and federal United States attorneys general with jurisdiction for the locations involved;
- (3) Communicating, discussing, and meeting with the department of justice as suggested by Congress in the Emmett Till Unsolved Civil Rights Crimes Reauthorization Act of 2016 to coordinate activities surrounding unsolved civil rights crimes and cold cases believed to have occurred in this state;
- (4) Collecting and maintaining, within the center, pertinent information on pending conferences, workshops, public hearings, remembrance and reconciliation events, information on the ten (10) Tennessee stops on the new Civil Rights Trail, information on the activities surrounding the fiftieth anniversary of the Dr. Martin Luther King assassination, and other meetings concerning unsolved civil rights crimes and cold cases occurring in this state;
- (5) Coordinating with the state archivist to determine if any material, information, report, or other document received by the Tennessee civil rights crimes information, reconciliation, and research center is of historical significance and possesses the indicia of authenticity necessary to consider its transfer to the state library and archives for permanent display and storage;
- (6) Assisting the public and federal, state, and local government entities with inquiries regarding information on unsolved civil rights crimes and cold cases in this state;
- (7) Initiating and participating in any reconciliation actions, meetings, ceremonies, services, and other similar activities on behalf of the state of Tennessee;
- (8) Researching, seeking, and applying for any available funding or grants from the federal government or the private sector awarded for any of the purposes of the Tennessee civil rights crimes information, reconciliation, and research center; and

(9) Submitting a report by January 30, 2019, and each January 30th thereafter, to the speaker of the senate and the speaker of the house of representatives, the senate judiciary committee, and the house of representatives judiciary committee of the general assembly detailing the activities of the Tennessee civil rights crimes information, reconciliation, and research center since May 15, 2018.

3-6-103. Creation — Composition — Staff — Selection of members — Terms — Meetings.

(a)(1) There is created as a division of the bureau of ethics and campaign finance, as provided in title 4, chapter 55, a Tennessee ethics commission. The commission shall be composed of six (6) members appointed as provided in this section.

(2)(A) Appointments shall be made to reflect the broadest possible representation of Tennessee citizens. Of the six (6) members appointed, at least one (1) shall be a female member and one (1) shall be an African-American member. However, an African-American female member shall not satisfy the requirement of one (1) female member and one (1) African-American member. Each member shall:

- (i) Have been a legal resident of this state for five (5) years immediately preceding selection;
- (ii) Be at least thirty (30) years of age;
- (iii) Be a registered voter in Tennessee;
- (iv) Be a person of high ethical standards who has an active interest in promoting ethics in government; and
- (v) Not have been convicted of a felony.

(B) No person shall be appointed to the commission if the person, or any member of the person's immediate family as defined in § 3-6-301, is announced as a candidate for public office, holds public office, or is a member of a political party's state executive committee.

(b) The members of the ethics commission shall also serve as members of the board of directors of the bureau of ethics and campaign finance.

(c)(1) The members of the Tennessee ethics commission shall be selected as follows:

(A) The governor shall appoint one (1) member who is a member of the majority party and one (1) member who is a member of the minority party;

(B) The speaker of the senate shall appoint one (1) candidate from a list of three (3) candidates submitted by the majority caucus of the senate and one (1) candidate from a list of three (3) candidates submitted by the minority caucus of the senate. The speaker of the senate may request a second list of candidates; however, no candidate from the original list of candidates may appear on the second list of candidates; and

(C) The speaker of the house of representatives shall appoint one (1) candidate from a list of three (3) candidates submitted by the majority caucus of the house of representatives and one (1) candidate from a list of three (3) candidates submitted by the minority caucus of the house of representatives. The speaker of the house of representatives may request a second list of candidates; however, no candidate from the original list of candidates may appear on the second list of candidates.

(2) Each gubernatorial appointee shall be subject to confirmation by a two-thirds ($\frac{2}{3}$) vote of approval by each house of the general assembly and

each legislative appointee shall be subject to confirmation by a two-thirds ($\frac{2}{3}$) vote of approval by the appointing authority's house. If the general assembly is in session when an appointment is made, then the appointment shall be subject to confirmation within ninety (90) days of appointment. If the general assembly is not in session when an appointment is made, the appointment shall be subject to confirmation within ninety (90) days after the general assembly next convenes following the appointment. If an appointee is refused confirmation, or is not confirmed during the ninety-day period, then the appointing authority of the appointee shall select another appointee for confirmation subject to the requirements of this section. Vacancies shall be filled in the same manner as the vacating member's office was originally filled. Notwithstanding this subdivision (c)(2), an appointment to serve on the initial commission shall be made by April 1, 2006.

(d)(1) The initial members' terms of office shall commence upon appointment. For purposes of calculating the initial terms of the members' offices, the initial appointments shall be deemed to be made on January 1, 2007. The initial members' terms shall be staggered as follows:

(A) The gubernatorial appointees shall serve initial terms of two (2) years;

(B) The senate appointees shall serve initial terms of three (3) years; and

(C) The house of representatives appointees shall serve initial terms of four (4) years.

(2) After the initial terms, members of the commission shall serve four-year terms.

(e) The initial chair of the commission shall be appointed by the governor. Every year thereafter the commission shall elect a chair from among its membership. The chair shall serve in that capacity for one (1) year and shall be eligible for reelection. The chair shall preside at all meetings and shall have all the powers and privileges of the other members.

(f) The commission shall fix the place and time of its regular meetings by order duly recorded in its minutes. Four (4) members of the commission shall constitute a quorum. Except as provided in § 3-6-201, four (4) affirmative votes are required for any commission action. Special meetings shall be called by the chair on the chair's initiative or upon the written request of three (3) members. Members shall receive written notice three (3) days in advance of a special meeting. Notice shall be served personally or left at a member's usual place of residence and shall specify the purpose, time and place of the meeting. No matters unrelated to the specified purpose may be considered without a specific waiver by all members of the commission.

(g) The members of the commission shall receive no compensation; provided, that each member of the commission shall be eligible for reimbursement of expenses and mileage in accordance with the regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(h) No member of the commission or the member's immediate family, as defined in § 3-6-301, shall during such membership:

(1) Be allowed to hold or qualify for elective office to any state or local public office, as defined in § 2-10-102;

(2) Be an employee of the state or any political subdivision of the state;

(3) Be an officer of any political party or political committee;

(4) Permit such person's name to be used or make campaign contributions in support of or in opposition to any candidate or proposition, except that a member's immediate family may make campaign contributions in support of or in opposition to any candidate or proposition;

(5) Participate in any way in any election campaign;

(6) Lobby or employ a lobbyist; or

(7) Be employed by any elected officeholder, either in an official capacity or as an individual, or be employed by any business in which an elected officeholder has any direct input concerning employment decisions.

(i) An incumbent member of the commission may seek votes for confirmation of the member's appointment to the commission; provided, that the member shall comply with the provisions of subsection (h).

(j) Subsection (h) shall be applicable for one (1) year subsequent to the removal, vacancy or termination of the term of office of a member of the commission.

(k)(1) Each member of the commission shall, before they proceed to business, take an oath or affirmation to support the constitution of this state and of the United States and the laws of this state and also the following oath:

I _____ do solemnly swear (or affirm) that as a member of this commission, I will, in all matters, vote without favor, affection, partiality, or prejudice; and that I will not propose or assent to any action, measure, or resolution which shall appear to me to be contrary to law.

(2) Unless otherwise provided by law, any member of the commission who violates the oath of office for the member's position or participates in any of the activities prohibited by this chapter commits a Class A misdemeanor. If a sworn complaint is made pursuant to § 3-6-209 that a member has violated the oath of office for the position, has participated in any of the activities prohibited by this chapter, or has committed actions inconsistent with the intent of the Comprehensive Governmental Ethics Reform Act of 2006, Acts 2006, ch. 1 of the extraordinary session of the 104th general assembly, then, upon a unanimous vote of the remaining members, the member against whom the sworn allegation is made may be suspended from the commission for such purposes and for such times as the remaining members shall unanimously determine; but no such suspension shall extend beyond final disposition of the sworn complaint pursuant to § 3-6-209. The accused member shall not participate in the suspension vote.

3-7-101. Creation — Membership. [Effective on January 1, 2021. See version effective until January 1, 2021.]

(a) There is created a special, continuing committee of the general assembly, to be known as the fiscal review committee.

(b)(1)(A) It shall be composed of the speaker of the senate, the speaker of the house of representatives, the chair of the senate standing committee on finance, ways and means (or if the committee has co-chairs, then one (1) of them, to be designated by the speaker), the chair of the house standing committee on finance, ways and means (or if the committee has co-chairs, then one (1) of them, to be designated by the speaker), all ex officio members, and fourteen (14) members to be elected as follows:

(B) Seven (7) senators and seven (7) representatives to be elected by the respective houses of the general assembly, with each house to elect an

appropriate number of members from each of the two (2) major political parties so that the political make-up of the committee, exclusive of the speakers, shall reflect as nearly as possible the same ratio of members of such parties as the parties are represented in the respective houses. Notwithstanding subdivision (b)(1)(A), however, no political party shall have less than two (2) elective members from each house of the general assembly.

(2) After committee membership is selected pursuant to subdivision (b)(1) and subsection (c), if the required political party ratio or minimum representation is undermined by changed circumstances other than a vacancy in the committee membership, then the required party ratio or minimum representation shall be promptly restored via appointment of an additional interim member or members by the appropriate speaker. The term of any member so appointed shall terminate at the next regular election of committee membership conducted pursuant to subdivision (b)(1) and subsection (c).

(c) Committee members shall serve for their full term of office as legislators and until their successors are selected and qualified, if reelected to either house of the general assembly. Members are eligible to succeed themselves as members of the committee. As terms expire, successors shall be selected during the fifteen-day organizational session of each general assembly.

(d) Vacancies among the membership shall be filled in the same manner as in the original selection of members, except that in the case of a vacancy in the elected membership when the general assembly is not in session, the speaker of the body from which the originally elected member came shall appoint a successor, who shall be from the same political party as the member's predecessor.

(e) The committee shall elect from its membership a chair, a vice chair, and such other officers as it considers necessary. The chair and vice chair shall be of opposite houses of the general assembly so that one (1) is a member of the senate and one (1) is a member of the house of representatives. The chair and vice chair positions shall rotate between the senate and house of representatives every two (2) years.

(f) All members of the committee, exclusive of the speakers, shall be voting members.

3-7-107. Executive director and other personnel.

(a) Beginning July 1, 2020, the speaker of the senate and the speaker of the house of representatives shall jointly appoint an executive director of the fiscal review committee. The executive director serves at the pleasure of the speakers; provided, however, in order to remove an executive director after July 1, 2020, both speakers must agree to the removal.

(b) The executive director must be chosen without reference to party affiliation but solely on the basis of fitness to perform the duties of the office. The executive director must be a graduate of an accredited college or university and have five (5) or more years of experience in the field of professional financial management, administrative services management or related professional managerial experience, or governmental experience in relation to the fiscal or budget process. The speaker of the senate and the speaker of the house of representatives will determine the compensation of the executive director.

(c) Personnel shall be employed on recommendation of the executive direc-

tor with the approval of the fiscal review committee. Personnel must be chosen without reference to party affiliation but solely on the basis of fitness to perform the duties of the office. The compensation of fiscal review personnel will be determined by the speaker of the senate and the speaker of the house of representatives, upon recommendation of the executive director.

(d) The office of legislative administration shall assist the fiscal review committee with personnel, payroll, and other administrative functions.

4-1-303. State poems.

(a) The poem entitled, "Oh Tennessee, My Tennessee," by Admiral William Lawrence, is designated and adopted as an official state poem for this state, which poem reads as follows:

"Oh Tennessee, My Tennessee
What Love and Pride I Feel for Thee.
You Proud Ole State, the Volunteer,
Your Proud Traditions I Hold Dear.
I Revere Your Many Heroes
Who Bravely Fought our Country's Foes.
Renowned Statesmen, so Wise and Strong,
Who Served our Country Well and Long.
I Thrill at Thought of Mountains Grand;
Rolling Green Hills and Fertile Farm Land;
Earth Rich with Stone, Mineral and Ore;
Forests Dense and Wild Flowers Galore;
Powerful Rivers that Bring us Light;
Deep Lakes with Fish and Fowl in Flight;
Thriving Cities and Industries;
Fine Schools and Universities;
Strong Folks of Pioneer Descent,
Simple, Honest, and Reverent.
Beauty and Hospitality
Are the Hallmarks of Tennessee.
And O'er the World as I May Roam,
No Place Exceeds my Boyhood Home.
And Oh How Much I Long to See
My Native Land, My Tennessee."

(b) The poem entitled, "My Tennessee," by Michael McDonald, is designated and adopted as an official state poem for this state, which poem reads as follows:

Cowboy boots, pickup trucks,
White-faced bulls, and lespedeza hay,
Cottontails runnin', beagle dogs singin'
Huntin' with Grandpa, on a gray, frosty day.

Sunday mornin' preachin, hell-fire and brimstone,
Country ham for dinner, banana puddin' and ice tea,
Pitchin' them horse-shoes, watermelon cuttin',
Friends and kinfolk underneath the old oak tree.

Tennessee, you're a raging river,
A Lookout Mountain, seeing as far as you can see,
Bloody Shiloh, brother against brother,
General Grant and Robert E. Lee,

Sittin' on a feed sack, pickin' my guitar,
Writin' them songs, in a country kinda way,
Whittlin' on a cedar stick, spittin' tobacco juice,
Spinnin' them yarns, about by-gone days.

Andrew Jackson and ol' Davy Crockett
Always were heroes to me.
Buckskin britches, black-powder rifles,
Dreamin' 'bout freedom and the days that used to be.

Tennessee I'll never leave you,
You're the heart and soul of me,
Mighty Mississippi, Great Smoky Mountains,
You're all these things, and more to me.

Matched-pair of sorrel mules, Tennessee walkers,
Munchin' on a moon pie and an R.O.C.;
Duck-head overalls, wish I had a Goo Goo;
All rared back listenin' to the Grand Ole Opry.

Tennessee I'll never leave you,
You're the heart and soul of me,
Mighty Mississippi, Great Smoky Mountains,
All these things, my Tennessee.

4-1-342. Official state buck dance competition.

Notwithstanding any law to the contrary, the Robert Spicer Memorial Buck Dance Championship is hereby designated the official buck dance competition of Tennessee.

4-1-343. Official state dog.

The bluetick coonhound is designated as the official state dog.

**4-1-401. Standard time — Observation of advancement of time —
Observation of year-round daylight savings time.**

(a) There shall be observed in each and every part of this state only standard time as fixed for such area by the United States department of transportation. No town, city, municipal corporation, taxing district, county or other governmental subdivision shall possess power to adopt permanently or temporarily or from time to time any other standard of time to be observed than as prescribed by this subsection (a). All municipal ordinances, resolutions or other forms of enactment by any body of the nature mentioned in this subsection (a) in conflict with this section are hereby nullified and made of no effect, whether enacted prior or subsequent to the effective date of this section.

(b) No person, firm, partnership, corporation or other entity operating or

maintaining a place of business of whatsoever kind or nature shall employ, display or maintain or use any other standard of time in connection with such place of business than standard time as prescribed by this section. No radio or television station doing business in this state shall operate on, announce, employ, display, maintain or use any other standard of time than standard time as prescribed by this section.

(c) Whoever shall in connection with any place of business of whatsoever kind or nature employ, display, announce, operate on, maintain or use any other than standard time as prescribed by this section commits a Class C misdemeanor. Each day of such violation constitutes a separate offense.

(d)(1) This state shall observe the advancement of time provided in 15 U.S.C. § 260a at all times throughout the year, and daylight saving time will be the standard time of the entire state and all of its political subdivisions upon compliance with the following conditions:

(A) The United States congress amending or repealing 15 U.S.C. § 260a to authorize states to observe daylight saving time year round;

(B) The commissioner of transportation certifying in writing to the speakers of the senate and the house of representatives the congressional action described in subdivision (d)(1)(A); and

(C) The general assembly, by joint resolution, confirming the congressional action described in subdivision (d)(1)(A) and authorizing the implementation of the state's observation of daylight saving time year round.

(2) The observation of year-round daylight saving time will begin the first Sunday of November following compliance with the requirements of subdivision (d)(1).

4-1-420. Reelfoot Lake designated Tennessee Heritage Site.

(a) Reelfoot Lake is designated as a Tennessee Heritage Site.

(b) A department or agency of this state may use the terms "Reelfoot Lake" or "Tennessee Heritage Site," or both, for purposes of publications, advertisements, marketing, and other communications.

4-3-123. Commission on aging and disability — Review of agency proposals.

(a) In order to fulfill its duties as established by § 71-2-105, it is essential that the commission on aging and disability have an opportunity to review and comment on proposed plans, programs and rules that may have a substantial and direct effect on persons sixty (60) years of age or older and to be given the opportunity to have its representative in attendance at meetings of administrative departments or agencies of state government that qualify as open meetings as defined in § 8-44-102, at which such matters are intended to be considered. Therefore, the commission through its executive director shall define those areas of concern that affect older Tennesseans and make such areas known to state departments and agencies.

(b) State departments and agencies of state government shall appropriately notify the commission in accordance with the Uniform Administrative Procedures Act, compiled in chapter 5 of this title, and the procedure for intergovernmental review established by Executive Order No. 58, which took effect October 29, 1983, concerning those areas defined by the commission.

4-3-731. Execution of a separate agreement when grant or loan contract reserves right of recovery if person or entity fails to fulfill commitments — Execution of separate agreement in conjunction with capital grant contract — Reports.

(a) Notwithstanding any law to the contrary, the department of economic and community development shall execute a separate agreement in conjunction with any grant or loan contract awarded pursuant to § 4-3-717(d)(1) that reserves the right of the department to recover the amount of money, grants, funds, or other incentives disbursed by the department, in whole or in part, if the person or entity benefitting from such money, grants, funds, or other incentives fails to fulfill the commitments made by such person or entity to the department.

(b) For any grant or loan contract awarded pursuant to § 4-3-717(d)(1) on or after July 1, 2014, the department shall publish all baseline reports or annual reports filed with the department pursuant to this section on its web site within ninety (90) days of receipt. For any grant or loan contract awarded pursuant to § 4-3-717(d)(1) between May 27, 2005, and January 1, 2011, the recipient shall be required to file a one-time report by February 1, 2015. The department shall provide a form for the reports that shall request, at a minimum:

- (1) The name of the development authority which administers the grant;
- (2) The name of the eligible business;
- (3) For baseline reports, the number of existing employees of the eligible business;
- (4) For annual reports, the number of net new jobs for the reporting period, as well as the number of cumulative net new jobs of the eligible business, and the total amount of the grant; and
- (5) Any other information that may be required by the department.

(c) As used in this section:

(1) “Annual report” means a report which is delivered to the department by an eligible business after execution of a grant or loan contract awarded pursuant to § 4-3-717(d)(1) on an annual basis which details the number of net new jobs for the reporting period as well as the number of cumulative net new jobs; and

(2) “Baseline report” means a report which is delivered to the department by an eligible business upon execution of a grant or loan contract awarded pursuant to § 4-3-717(d)(1) which details the number of existing employees of an eligible business.

(d) Notwithstanding any law to the contrary, the department shall execute a separate agreement in conjunction with any capital grant contract awarded pursuant to chapter 15 of this title, for economic development purposes. The separate agreement must reserve the right of the department to recover the amount of grants, funds, or other incentives disbursed by the department of finance and administration pursuant to the grant contract, in whole or in part, if the person or entity benefitting from the grants, funds, or other incentives fails to fulfill the commitments made by the person or entity to the department of economic and community development.

4-3-737. Small business incentive.

(a)(1) As an incentive to encourage the creation of more small businesses in this state by making access to essential information necessary to begin a

business user friendly, the department of economic and community development, in consultation with the office of small business advocate, created within the office of the comptroller of the treasury pursuant to § 8-4-702, shall develop a web page to aid the user in obtaining information concerning state laws, regulations and requirements that apply to the specific type of small business the user desires to form. The web page shall have its own domain name with a URL that indicates it is related to small businesses. The web page shall also contain hyperlinks to such laws, regulations and requirements. The hyperlinks shall include, but not be limited to:

(A) Forms or documents which a state department or agency requires to be filed for that type of business to operate in Tennessee;

(B) Contact information and web sites for boards and commissions which regulate the specific type of entity to be formed; and

(C) Notices regarding potential and pending rule making hearings for the various boards and commissions.

(2) The web page shall also provide notice to the user of the importance of checking with the local government where the business is to be located to ensure compliance with local zoning and code requirements and may provide a hyperlink to the county or municipality's web page, if one is maintained by the county or municipality.

(b) All departments and agencies with regulatory authority over business shall provide assistance in the compilation of this information.

(c) The department of economic and community development shall monitor the web page to ensure the accuracy of its information and to update it as necessary.

(d) The office of small business advocate shall report the status of the project no later than February 15, 2013, to the commerce and labor committee of the senate and the commerce committee of the house of representatives.

4-3-738. Made in Tennessee Act — Encourage producers and promotion of Tennessee products.

(a) This section shall be known and may be cited as the "Made in Tennessee Act."

(b) The purpose of this section is to encourage producers and promotion of nonagricultural products made in this state.

(c) The University of Tennessee Center for Industrial Services may:

(1) Use a logo or seal for "Made in Tennessee" products and goods, except for food and agricultural products, that have been substantially processed, fabricated, manufactured or otherwise transformed in this state; and

(2) Take appropriate steps to protect the logo or seal from misuse or infringement as deemed necessary by the center.

(d) Prior to use of the logo or seal, a producer or retailer shall register with the center and comply with all terms, conditions and requirements for use of the logo or seal as determined by the center. A list of all producers and retailers registered with the center may be made available on the center's web site.

(e) The center may deny, suspend or revoke a producer or retailer's registration and the ability to use the logo or seal if the producer or retailer fails to comply with the terms, conditions and requirements promulgated by the center.

(f) The department may provide technical assistance to the center upon

request.

(g) The center may seek any available grants and other sources of funding to implement and administer this section.

(h) By February 1 of each year, the center shall report on promotion of nonagricultural products made in this state through use of a logo or seal pursuant to this section to the commerce and labor committee of the senate and the commerce committee of the house of representatives.

(i) As used in this section, unless the context requires otherwise:

(1) "Agricultural products" means horticultural, poultry, dairy and farm products, livestock and livestock products, harvested trees, nursery stock and nursery products;

(2) "Center" means the University of Tennessee Center for Industrial Services;

(3) "Department" means the department of economic and community development;

(4) "Producer" means any individual or legal entity engaged in the processing, fabrication, manufacture or other transformation of goods or products, other than food and agricultural products, in this state; and

(5) "Retailer" means any individual or legal entity engaged in the business of making sales of a producer's goods or products to the public.

4-3-1013. Authority to develop prescription drug programs and to contract with pharmacy benefits managers (PBMs).

(a) The TennCare bureau is authorized to develop prescription drug programs and to contract with one (1) or more pharmacy benefit managers (PBMs) or other appropriate third party contractors to administer all or a portion of such prescription drug programs for the TennCare program. It is the legislative intent that, insofar as practical, any such pharmacy programs shall be developed and implemented in a manner that seeks to minimize undue disruption in successful drug therapies for current TennCare enrollees.

(b) Under such a contract, a PBM may be directed by the TennCare bureau to:

(1) Provide information to the state TennCare pharmacy advisory committee for making recommendations related to a state preferred drug list (PDL);

(2) Provide claims processing and administrative services for the TennCare program;

(3) Provide data on utilization patterns to the bureau of TennCare, the department of finance and administration, TennCare managed care organizations, the University of Tennessee Health Science Center, and other entities determined by the TennCare bureau;

(4) Conduct prospective and retrospective drug utilization review as directed by the bureau of TennCare;

(5) Establish procedures for determining potential liability of third party payers, including, but not limited to, Medicare and private insurance companies, for persons receiving pharmacy services through the state of Tennessee;

(6) Maintain a retail pharmacy network to provide prescription drugs through state programs;

(7) Set pharmacy reimbursement rates and dispensing fee schedules necessary to maintain an adequate retail pharmacy network and increase

the cost-effectiveness of state pharmacy purchases;

(8) Negotiate supplemental rebates with pharmaceutical manufacturers for prescription drug expenditures;

(9) Propose other initiatives to the bureau of TennCare to maintain or improve patient care while reducing prescription drug costs; and

(10) Provide other services as directed by the bureau of TennCare.

(c) The state TennCare program shall be authorized to receive one hundred percent (100%) of all rebates and any other financial incentives directly or indirectly resulting from the state's contract with any PBM.

(d) The PBM contract may include performance goals and financial incentives for success or failure in attaining those goals. It is the legislative intent that such goals and incentives shall include the reliable and timely performance of any system of prior authorization that may be implemented pursuant to pharmacy programs authorized by this section.

(e) To the extent permitted by federal law and the TennCare waiver, the bureau of TennCare may implement, either independently or in combination with a PDL, cost saving measures for pharmaceutical services including, but not limited to, tiered co-payments, reference pricing, prior authorization, step therapy requirements, exclusion from coverage of drugs or classes of drugs, mandating the use of generic drugs, and mandating the use of therapeutic equivalent drugs.

(f) The TennCare bureau shall be required to annually report to the committee of the house of representatives having oversight over TennCare, the health and welfare committee of the senate, and to the finance, ways and means committees of the senate and the house of representatives concerning pharmacy benefits under the medical assistance program provided pursuant to title 71, chapter 5, on or before January 15 of each calendar year, beginning on January 15, 2013. The report shall specifically report on the use and cost of opioids and other controlled substances in the program.

4-3-1205. Definitions for §§ 4-3-1205 – 4-3-1208.

(a) As used in §§ 4-3-1205 – 4-3-1208, unless the context otherwise requires:

(1) "Analytical procedure" means a process consisting of evaluations of financial information made by a study of plausible relationships among both financial and nonfinancial data, and involving a comparison of recorded values with expectations developed by an auditor. "Analytical procedure" includes, but is not limited to, data analysis to identify subrecipients who claim maximum reimbursement when fluctuations are expected, and the unreasonable or inconsistent relationships between the subrecipients' ability to provide the level of services that the subrecipients claim for reimbursement;

(2) "Chairs" mean:

(A) The chair of the government operations committee of the house of representatives and the chair of the government operations committee of the senate;

(B) The chair of the health committee of the house of representatives and the chair of the health and welfare committee of the senate; and

(C) The chair of the finance, ways and means committee of the house of representatives and the chair of the finance, ways and means committee of the senate;

- (3) "Department" means the department of human services;
- (4) "Speakers" mean the speaker of the house of representatives and the speaker of the senate;
- (5) "Sponsoring organization":
 - (A) Means a public or nonprofit private organization that is entirely responsible for the administration of a food program in:
 - (i) One (1) or more day care homes;
 - (ii) A child care center, emergency shelter, at-risk afterschool care center, outside-school-hours care center, or adult day care center which is a legally distinct entity from the sponsoring organization;
 - (iii) Two (2) or more child care centers, emergency shelters, at-risk afterschool care centers, outside-school-hours care center, or adult day care centers; or
 - (iv) Any combination of child care centers, emergency shelters, at-risk afterschool care centers, outside-school-hours care centers, adult day care centers, and day care homes; and
 - (B) Includes an organization that is entirely responsible for administration of a food program in any combination of two (2) or more child care centers, at-risk afterschool care centers, adult day care centers, or outside-school-hours care centers; and
- (6) "Subrecipient" means a nonfederal legal entity that receives a sub award from the department acting as a pass-through agency to carry out a federal program or grant. "Subrecipient" includes a sponsoring organization. "Subrecipient" does not include an individual that is a beneficiary of the program.
- (b) Every three (3) months, the department shall submit to the chairs, the speakers, and the comptroller of the treasury a report summarizing each announced and unannounced physical site visit conducted by the department during the subrecipient monitoring process. The report shall also contain advance notice of any announced and unannounced site visits planned for the following three-month period.
- (c) Every three (3) months, the office of inspector general within the department of human services shall submit to the chairs, the speakers, and the comptroller of the treasury a report summarizing the results of any substantiated investigation concerning fraud, waste, and abuse regarding the child and adult care food program and summer food service program.
- (d) The department's written reports submitted pursuant to subsections (b) and (c) shall be treated as confidential and shall not be open for public inspection.
- (e) The department shall develop subrecipient monitoring plans utilizing analytical procedures. The subrecipient monitoring plans shall be submitted to the chairs, speakers, and comptroller of the treasury prior to October 1 of each year, consistent with state central procurement office policy and the applicable federal plan development and submission cycle.
- (f) To the extent authorized by federal law, the department shall perform both announced and unannounced physical site visits during the subrecipient monitoring process. The department shall not provide any subrecipients with a description of the information sought by the department in anticipation of physical site visits conducted by the department during the subrecipient monitoring process.

4-3-1208. Authority to obtain state and national history background checks on employees and contractors with access to individuals with disabilities.

(a) The department is authorized, in accordance with 34 U.S.C. § 40102(a)(1), to obtain state and national criminal history background checks and investigations performed by the Tennessee bureau of investigation and the federal bureau of investigation on employees and contractors of the department of human services division of rehabilitation services who are likely to have access to individuals with disabilities.

(b) An employee of the department of human services division of rehabilitation services who is likely to have access to individuals with disabilities must:

(1) Agree to the release of all investigative records to the state for the purpose of verifying criminal history information; and

(2) Supply a fingerprint sample and submit to a state criminal history background check and investigation to be conducted by the Tennessee bureau of investigation and a national criminal history background check and investigation to be conducted by the federal bureau of investigation.

(c) A person who is contracted with the department of human services division of rehabilitation services or employed by or subcontracted with a company that is contracted with the department of human services division of rehabilitation services who is likely to have access to individuals with disabilities must:

(1) Agree to the release of all investigative records to their employer or the state for the purpose of verifying criminal history information; and

(2)(A) Supply a fingerprint sample and submit to a state criminal history background check and investigation to be conducted by the Tennessee bureau of investigation and a national criminal history background check and investigation to be conducted by the federal bureau of investigation; or

(B) Release information for a criminal background investigation by a state-licensed private investigation company.

(d) The department may require a person or entity contracting with the department to pay the costs associated with the background investigations of all employees of the contractor, which may be a condition of the contract with the department. If the background check is conducted by the Tennessee bureau of investigation or the federal bureau of investigation, the payment of the costs shall be made in accordance with § 38-6-103.

(e) The department is authorized to promulgate rules regarding the implementation and use of the background checks and investigations conducted pursuant to this section. All rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in chapter 5 of this title.

4-3-1303. Divisions — Creation.

The department of commerce and insurance shall be organized under three (3) divisions, as follows:

(1) The division of commerce and insurance;

(2) [Deleted by 2019 amendment.]

(3) The division of fire prevention; and

(4) The division of regulatory boards.

4-3-1304. Administration of regulatory boards — Notification of vacancy — Termination of regulatory board — Exemption from licensure requirements.

(a) Except as provided in § 68-115-103 relative to the Tennessee athletic commission, all state regulatory boards are attached to the division of regulatory boards, which is authorized to administer all the administrative functions and duties of the regulatory boards, except those discretionary regulatory duties and powers vested by law in the board members. The regulatory boards attached to the division are as follows:

- (1) Auctioneer commission;
- (2) Board for licensing general contractors;
- (3) Board of accountancy;
- (4) Board of court reporting;
- (5) Board of examiners for architects and engineers;
- (6) Board of examiners for land surveyors;
- (7) Board of funeral directors and embalmers;
- (8) Commission on firefighting personnel standards and education;
- (9) Motor vehicle commission;
- (10) Personnel recruiting services board;
- (11) Private investigation and polygraph commission;
- (12) Real estate commission;
- (13) State board of cosmetology and barber examiners; and

(14) All other boards, commissions and agencies created to regulate professions, vocations and avocations in this state, except that there shall not be included the Tennessee athletic commission, the board of healing arts, the board for licensing hospitals, the stream pollution control board, the pest control board, the board of examiners for registered professional sanitarians, the board of examiners of miners or the board of law examiners.

(b) Each regulatory board incurring a vacancy shall notify the appointing authority in writing within ninety (90) days after the vacancy occurs. All vacancies on the state regulatory boards attached to the division of regulatory boards shall be filled by the appointing authority within ninety (90) days of receiving written notice of the vacancy and sufficient information is provided for the appointing authority to make an informed decision in regard to filling such vacancy. If such sufficient information has been provided and such board has more than one (1) vacancy that is more than one hundred eighty (180) days in duration, such board shall report to the house of representatives and senate government operations committees why such vacancies have not been filled.

(c) If more than one half ($\frac{1}{2}$) of the positions on any state regulatory board are vacant for more than one hundred eighty (180) consecutive days, such state regulatory board shall terminate; provided, that such board shall wind up its affairs pursuant to § 4-29-112. If a state regulatory board is terminated pursuant to this subsection (c) it shall be reviewed by the evaluation committees pursuant to the Uniform Administrative Procedures Act, compiled in chapter 5 of this title, before ceasing all its activities. Nothing in this section shall prohibit the general assembly from continuing, restructuring, or re-establishing a state regulatory board.

(d)(1) As used in this subsection (d):

(A) "License" means a permit, approval, registration, or certificate issued by a state agency and held by an individual person. The term "license" as used in this subsection excludes licenses issued to business

entities, firms, physical locations, and supervisory personnel;

(B) "Member of the armed forces" means a member of the United States armed forces or a member of a reserve or Tennessee national guard unit who is in, or was called into, active service or active military service of the United States, as defined in § 58-1-102; and

(C) "State agency" means a state board, agency, commission, or any other entity attached to the division of regulatory boards, as listed in subsection (a).

(2) Notwithstanding any other exemption from licensure requirements, the following persons may engage in the practice of an occupation or profession regulated by a state agency under titles 16, 46, 55, 62, and 68 without being licensed pursuant to that title:

(A) A member of the armed forces while the person is stationed within this state if:

(i) The person holds a valid license to practice the regulated occupation or profession issued by another state or jurisdiction having reasonably similar standards for licensure;

(ii) The license is current and the person is in good standing in the state or jurisdiction of licensure;

(iii) The person agrees in writing to subject themselves to the jurisdiction of the state agency with respect to harms or violations of statutes and rules; and

(iv) The person provides notice by registering with the state agency administering the profession in which the person is licensed in the other jurisdiction to practice; and

(B) The spouse of a member of the armed forces while the member is stationed in this state if:

(i) The spouse holds a valid license to practice the regulated occupation or profession issued by another state or jurisdiction having reasonably similar standards for licensure;

(ii) The license is current and the spouse is in good standing in the state or jurisdiction of licensure;

(iii) The spouse agrees in writing to subject themselves to the jurisdiction of the state agency with respect to harms or violations of statutes and rules; and

(iv) The spouse provides notice by registering with the state agency administering the profession in which the person is licensed in the other jurisdiction to practice.

(3) A person who holds a valid license to practice an occupation or profession in another state or jurisdiction and practices in this state pursuant to this subsection (d) must apply for the license in this state either prior to its expiration in the other state or jurisdiction or within one (1) year of the date the person began practicing in this state, whichever occurs first.

(e) The commissioner and each regulatory board shall, upon application for certification or licensure, accept military education, training, or experience completed by a person toward the qualifications to receive a license or certification if such education, training, or experience is determined by the commissioner or board to be substantially equivalent to the standards of this state.

(f)(1) Notwithstanding any other law to the contrary, the license, certification or permit issued by a board, commission or agency attached to the

division of regulatory boards of any member of the national guard or a reserve component of the armed forces of the United States called to active duty that expires during the period of activation shall be eligible to be renewed upon the licensee being released from active duty without:

(A) Payment of late fees or other penalties;

(B) Obtaining continuing education credits when:

(i) Circumstances associated with the person's military duty prevented the obtaining of continuing education credits and a waiver request has been submitted to the appropriate regulatory board; or

(ii) The person performs the licensed or certified occupation as part of such person's military duties and provides documentation to the appropriate regulatory board; or

(C) Performing any other act typically required for the renewal of the license or certification.

(2) The license, certification or permit shall be eligible for renewal pursuant to subdivision (f)(1) for six (6) months from the person's release from active duty.

(3) Any person described in subdivision (f)(1) shall provide the regulatory board which issued the license, permit or certification such supporting documentation evidencing activation as may be required by the regulatory board prior to the renewal of any license pursuant to this subsection (f).

4-3-2210. Marketing of Reelfoot Lake as Tennessee Heritage Site.

The commissioner may strategically market Reelfoot Lake as a Tennessee Heritage Site for tourism development based on its geological history, natural resources, and other unique characteristics as funding may be available at the discretion of the commissioner.

4-3-5401 Short title.

This part shall be known and may be cited as the "Tennessee Sports Hall of Fame Act of 2019."

4-3-5402. Part definitions.

As used in this part:

(1) "Board" means the Tennessee hall of fame board created within the department under § 4-3-5404;

(2) "Commissioner" means the commissioner of the department;

(3) "Department" means the department of tourist development; and

(4) "Hall of fame" means the Tennessee sports hall of fame created under § 4-3-5403.

4-3-5403. Creation and administration.

(a) There is created a Tennessee sports hall of fame.

(b) The hall of fame must be administered by the commissioner and the board in accordance with this part.

4-3-5404. Existing board vacated — Creation of new board — Members — Term of office — Meetings — Executive director.

(a) As of April 4, 2019:

(1) The existing membership of the Tennessee sports hall of fame board of directors is vacated and the board ceases to exist; and

(2) The position of executive director of the board of directors and any other position of employment with the board is vacated and those positions cease to exist.

(b)(1) There is created within the department the Tennessee sports hall of fame board. The board is composed of nineteen (19) voting members as follows:

(A) Six (6) members each being appointed by the governor, the speaker of the senate, and the speaker of the house of representatives; and

(B) The commissioner.

(2) Each appointing authority shall appoint two (2) members from each grand division of this state, and when making future appointments, shall ensure that the grand divisions are equally represented.

(3) In order to stagger the terms of the newly appointed board members:

(A) The governor shall appoint six (6) persons to initial terms expiring on July 1, 2023;

(B) The speaker of the senate shall appoint six (6) persons to initial terms expiring on July 1, 2022; and

(C) The speaker of the house of representatives shall appoint six (6) persons to initial terms expiring on July 1, 2021.

(4) Following the initial terms, all appointed members of the board shall serve terms of four (4) years. A member shall not serve more than two (2) consecutive four-year terms.

(5) Existing members of the Tennessee sports hall of fame board of directors, as of the day immediately preceding April 4, 2019, are not eligible for appointment to the board.

(c) In the event of a vacancy for an appointed member of the board, the respective appointing authority shall fill the vacancy for the unexpired term. Each appointee shall serve until a successor is duly appointed and qualified.

(d) The commissioner shall call the first meeting of the board after April 4, 2019. At the first meeting, and at the first meeting of each year thereafter, the board shall elect from among its members:

(1) A chair, vice chair, and any other officers deemed necessary; and

(2) An executive committee to be composed of seven (7) members, with two (2) members representing each grand division of this state, and the commissioner, who shall serve as chair of the executive committee. The executive committee shall adopt bylaws prescribing the duties and functions of the committee.

(e) The board shall meet at the call of the chair and not less than two (2) times per year.

(f) The members of the board are not entitled to any compensation for their service on the board, nor are the members entitled to per diem or travel expenses for purposes of carrying out their duties under this part.

(g) Meetings of the board must comply with the open meeting requirements of title 8, chapter 44.

(h) All records of the board are deemed to be public records for purposes of the public records law, compiled in title 10, chapter 7.

(i) The board may employ an executive director and other employees as the board deems necessary to carry out its functions and duties. The executive director and employees serve at the pleasure of the commissioner. The

executive director and employees are subject to an annual performance review by the commissioner, and upon such review, the commissioner shall report the findings to the board upon completion.

(j) The office of the comptroller may audit the board or the executive committee as it deems necessary.

4-3-5405. Purposes of the board.

(a) Except for the limited purposes prescribed in subsection (b) or as provided under § 4-3-5406(b), the board has no authority to manage, administer, or oversee the hall of fame, and such authority is vested exclusively with the commissioner.

(b) The board shall:

(1) Nominate and induct qualified athletes, athletic teams, sports personalities, and sporting events to the hall of fame in accordance with guidelines prescribed by the board, subject to approval by the commissioner;

(2) Conduct fundraising to support the hall of fame. Any funds raised by the board must be used to support the hall of fame and held by the department and accounted for separately for such use;

(3) Offer advice and guidance to the commissioner for purposes of the commissioner's administration, management, and oversight of the hall of fame, including, but not limited to:

(A) Suggesting programs and campaigns that are designated to promote the spirit of sportsmanship and genteel competition both inside and outside the arena of athletic competition; and

(B) Recommending guidelines and criteria, consistent with the purposes of the hall of fame, for purposes of assisting the commissioner with the administration of a scholarship program under § 4-3-5407; and

(4) For good cause shown, review, reconsider, and renominate, in whole or in part, a previous class elected to the hall of fame.

4-3-5406. Purposes of the hall of fame — Commissioner facilitation.

(a) In managing and administering the hall of fame, the commissioner shall facilitate the purposes of the hall of fame, which are to:

(1) Honor, preserve, and perpetuate the names and accomplishments of outstanding athletes, athletic teams, and other sports personalities who are natives of Tennessee;

(2) Honor persons who have competed on teams for, or worked for, Tennessee institutions of learning;

(3) Honor persons with outstanding athletic records who reside in the state of Tennessee at the time of their nomination;

(4) Honor deceased persons with outstanding athletic records who were residents of Tennessee;

(5) Establish, erect, and maintain a permanent archive for the collection and display of memorabilia related to the lives and careers of individuals, teams, and sports events chosen for induction into the hall of fame; and

(6) Inform the public about the lives and accomplishments of the inductees and purposes of the hall of fame.

(b) The commissioner may delegate any duties under subsection (a) to the board as the commissioner deems necessary.

4-3-5407. Powers of the commissioner.

The commissioner may:

(1) Request from any branch, department, division, board, bureau, commission, or other agency of the state or that receives state funds, such information as will enable the commissioner and board to best serve the hall of fame and perform the duties required by this part;

(2) Enter into mutual agreements with any state or local government, or subdivision thereof, or privately owned entity authorizing the hall of fame the use of any facility within the control or jurisdiction of such entity for or in connection with hall of fame activities;

(3) Administer a scholarship program to award privately funded scholarships to students based on guidelines and criteria recommended by the board, consistent with the purposes of the hall of fame; and

(4) Promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for purposes of carrying out this part.

4-5-322. Judicial review.

(a)(1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter, which shall be the only available method of judicial review. A preliminary, procedural or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy.

(2) A state agency is considered to be an aggrieved person for the purpose of judicial review when the order is from a board, commission or other entity independent of the aggrieved agency. In such instances, judicial review under this chapter is permitted upon the request of the agency head and the approval of the attorney general and reporter.

(b)(1)(A)(i) Proceedings for review are instituted by filing a petition for review in chancery court.

(ii) Except as provided in subdivisions (b)(1)(B), venue for appeals of contested case hearings shall be in the chancery court nearest to the place of residence of the person contesting the agency action or alternatively, at the person's discretion, in the chancery court nearest to the place where the cause of action arose, or in the chancery court of Davidson County.

(iii) Venue for appeals of contested case hearings involving TennCare determinations shall be in the chancery court of Davidson County.

(iv) Petitions seeking judicial review shall be filed within sixty (60) days after the entry of the agency's final order thereon.

(B)(i) A person who is aggrieved by a final decision of the department of human services or the department of children's services in a contested case may file a petition for review in the chancery court located either in the county of the official residence of the appropriate commissioner or in the county in which any one (1) or more of the petitioners reside.

(ii) A person who is aggrieved by the final determination of a hearing officer or local board of education in a special education hearing conducted pursuant to § 49-10-606 may file a petition for review in the chancery court of Davidson County or, alternatively, in the county in which the petitioner resides.

(iii) A person who is aggrieved by any final decision of the Tennessee public utility commission, or by a final decision of the state board of equalization in a contested case involving centrally assessed utility property assessed in accordance with title 67, chapter 5, part 13, shall file any petition for review with the middle division of the court of appeals.

(2) In a case in which a petition for judicial review is submitted within the sixty-day period but is filed with an inappropriate court, the case shall be transferred to the appropriate court. The time for filing a petition for review in a court as provided in this chapter shall not be extended because of the period of time allotted for filing with the agency a petition for reconsideration. Copies of the petition shall be served upon the agency and all parties of record, including the attorney general and reporter, in accordance with the provisions of the Tennessee Rules of Civil Procedure pertaining to service of process.

(c) The filing of the petition for review does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon appropriate terms, but if it is shown to the satisfaction of the reviewing court, in a hearing that shall be held within ten (10) days of a request for hearing by either party, that any party or the public at large may suffer injury by reason of the granting of a stay, then no stay shall be granted until a good and sufficient bond, in an amount fixed and approved by the court, shall be given by the petitioner conditioned to indemnify the other persons who might be so injured and if no bond amount is sufficient, the stay shall be denied. The reviewing court shall not consider a stay unless notice has been given to the attorney general and reporter; nor shall the reviewing court consider a stay unless the petitioner has previously sought a stay from the agency or demonstrates that an agency ruling on a stay application cannot be obtained within a reasonable time.

(d) Within forty-five (45) days after service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all the parties of the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the record.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.

(f) The procedure ordinarily followed in the reviewing court will be followed in the review of contested cases decided by the agency, except as otherwise provided in this chapter. The agency that issued the decision to be reviewed is not required to file a responsive pleading.

(g) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court.

(h) The court may affirm the decision of the agency or remand the case for

further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (5)(A) Unsupported by evidence that is both substantial and material in the light of the entire record.

(B) In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact.

(i) No agency decision pursuant to a hearing in a contested case shall be reversed, remanded or modified by the reviewing court unless for errors that affect the merits of such decision.

(j) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record.

4-6-149. Eligibility to receive credit towards receipt of occupational license for occupational, career, or technical training in schools or correctional institution. [Effective on January 1, 2020.]

(a) Persons who receive certified occupational, career, or technical training in schools or correctional institutions pursuant to this chapter are eligible to receive equivalent credit towards the receipt of an occupational license relating to the training received.

(b)(1) The occupational, career, or technical training received pursuant to this chapter must be consistent with the requirements for licensure by licensing authorities in order for persons to be eligible for equivalent credit under subsection (a).

(2) Any person aggrieved by the decision of a licensing authority concerning eligibility for equivalent credit under this section may appeal to the commissioner of commerce and insurance or the commissioner's designee for a determination of whether the training meets the requirements for licensure. An appeal under this subdivision (b)(2) must be conducted in the same manner as is provided in § 4-5-322, for a contested case hearing under the Uniform Administrative Procedures Act, compiled in chapter 5 of this title.

(c) The commissioner of commerce and insurance, in collaboration with the commissioner of correction and the various departments charged with supervision of licensing authorities shall promulgate rules to effectuate the purposes of chapter 492 of the Public Acts of 2019. All rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in chapter 5 of this title.

(d) This section applies to all professions and occupations regulated under title 62.

4-10-112. Monitoring of current wholesale power supply arrangements between the TVA and municipal utilities and electric cooperatives.

The Tennessee advisory commission on intergovernmental relations (TACIR) is directed to continue to monitor, within existing resources, whether the current wholesale power supply arrangements between the Tennessee Valley authority and municipal utilities and electric cooperatives are likely to change in the future in a way that could affect payments in lieu of taxes from the Tennessee Valley authority to the state and to its local governments. No later than the last day of February of each year, TACIR shall report written findings to the commerce and labor committee of the senate, the commerce committee of the house of representatives, the finance, ways and means committee of the senate, and the finance, ways and means committee of the house of representatives. The report shall include recommendations, if any, on adjustments to the state tax system that would keep the state and local governments whole from such future changes.

4-12-102. Executive director and other employees — Museum fund.

(a) The Douglas Henry state museum commission shall employ a museum executive director, and delegates its authority to the museum executive director to hire and manage experts and other employees as may be needed to properly care for and maintain the museum and to impart its educational value to the visiting public.

(b) The museum executive director has the authority to assume charge of all collections and articles acquired, and to coordinate and display such articles in such manner as the museum executive director deems to the best interest of the general public.

(c)(1) The museum executive director also has the power to solicit and accept gifts and contributions on behalf of the state museum upon such terms and conditions and for such uses and purposes as may be consistent with state law.

(2) The museum executive director shall install and maintain suitable containers for the collection of small cash donations to the state museum. The funds so collected shall be receipted and deposited as departmental revenue of the museum with the same budgetary and accounting controls as other funds of the museum. Expenditure of funds so collected shall be for the furtherance of the objectives of the museum's programs and shall be made under the same restrictions and controls as other expenditures of the museum.

(3)(A) The museum executive director may directly solicit funds on behalf of the museum, including, but not limited to, creating membership and sponsorship organizations and conducting annual giving campaigns.

(B) There is established within the general fund a special agency account to be known as the museum fund for the purpose of furthering the objectives of the museum's programs. All funds collected pursuant to this subdivision (c)(3) must be deposited into the fund. No part of the fund reverts to the general fund, but shall be carried forward until expended in accordance with this chapter.

(C) The fund must be administered by the museum executive director.

(D) Expenditure of funds collected pursuant to this subdivision (c)(3) must be for the furtherance of the objectives of the museum's programs and must be made under the same restrictions and controls as other expenditures of the museum.

(E) The museum executive director may create subfunds for funds raised with donor conditions upon their expenditure.

(F) Prior to July 1, 2019, and prior to July 1 of each subsequent fiscal year, and to the extent necessary during the fiscal year, certifications must be made and delivered to the commissioner of finance and administration, who has final authority regarding the actual expenditures of the fund.

(G) The museum executive director may promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in chapter 5 of this title to effectuate the purposes of this subdivision (c)(3).

(H) On or before July 31, 2019, and on or before July 31 of each subsequent fiscal year, the museum executive director must submit to the chairs of the finance, ways and means committees of the senate and the house of representatives, a report detailing the fundraising activities of the museum during the previous fiscal year.

4-16-101. Creation — Functions and duties.

(a) There is hereby created the office of local government to be located in the office of the comptroller of the treasury.

(b) [Deleted by 2019 amendment.]

(c) The office of local government has the following functions and duties:

(1) Provide geographic information systems technical support, training, and map maintenance to the division of property assessments and local governments;

(2) Assist local governments with geographic information systems and mapping issues;

(3) Assist and advise local governments with local redistricting and reapportionment;

(4) Compile and maintain precinct boundaries and maps in the state and assist with their development;

(5) Serve as the liaison with the United States census bureau and participate in its redistricting data program;

(6) Assist with other geographic information systems activities in the office of the comptroller of the treasury; and

(7) Such other duties as may be assigned by the comptroller of the treasury.

4-24-202. Bonus pay — Eligibility.

(a) Any unit of government with firefighters who successfully complete in each year an in-service training course, appropriate to the firefighter's rank and responsibility and the size and location of the firefighter's department, of at least forty (40) hours duration at a school certified or established by the commission shall be entitled to receive a pay supplement of eight hundred dollars (\$800) from the commission to be paid to the firefighter in addition to the firefighter's regular salary.

(b) Any or all firefighters shall be eligible for such educational incentive upon satisfactory completion, as determined by the commission, of forty (40)

hours of such training in each year.

(c)(1) Notwithstanding any law, rule or regulation to the contrary, any firefighter who served on active duty in the armed forces of the United States during either the Desert Storm or Desert Shield Operations shall receive the cash salary supplement provided pursuant to this section, if such service prevented such firefighter from attending the in-service training program pursuant to this section. The provisions are retroactive in application.

(2) In addition, any firefighter who served or serves on active duty in the armed forces of the United States during Operation Enduring Freedom or any other period of armed conflict prescribed by presidential proclamation or federal law that occurs following the period involving Operation Enduring Freedom shall receive the cash salary supplement provided pursuant to this section, if such service prevented or prevents such firefighter from attending the in-service training program pursuant to this section.

4-26-105. Reports.

(a) The department shall make a written report to the governor, the speaker of the senate, the speaker of the house of representatives, the chair of the commerce and labor committee of the senate, the chair of the commerce committee of the house of representatives, and any governor's advisory committee on minority economic development, at least once each year, such report to be made no later than December 1.

(b) The report shall advise the officials and committees mentioned in subsection (a) on the administration and operation of this chapter.

4-29-239. Governmental entities terminated on June 30, 2018.

(a) The following governmental entities shall terminate on June 30, 2018:

- (1) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (2) [Deleted by 2018 amendment; transferred to § 4-29-242.]
- (3) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (4) [Deleted by 2018 amendment; transferred to § 4-29-244.]
- (5) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (6) [Deleted by 2018 amendment; transferred to § 4-29-247.]
- (7) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (8) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (9) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (10) [Deleted by 2018 amendment; transferred to § 4-29-244.]
- (11) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (12) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (13) [Deleted by 2018 amendment; transferred to § 4-29-241.]
- (14) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (15) [Deleted by 2018 amendment; transferred to § 4-29-241.]
- (16) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (17) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (18) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (19) [Deleted by 2018 amendment; transferred to § 4-29-241.]
- (20) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (21) [Deleted by 2018 amendment; transferred to § 4-29-241.]
- (22) [Deleted by 2018 amendment; transferred to § 4-29-242.]
- (23) [Deleted by 2018 amendment; transferred to § 4-29-243.]

- (24) [Deleted by 2018 amendment; transferred to § 4-29-247.]
- (25) [Deleted by 2018 amendment; transferred to § 4-29-247.]
- (26) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (27) [Deleted by 2018 amendment; transferred to § 4-29-241.]
- (28) [Deleted by 2018 amendment.]
- (29) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (30) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (31) [Deleted by 2018 amendment; transferred to § 4-29-247.]
- (32) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (33) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (34) [Deleted by 2018 amendment; transferred to § 4-29-241.]
- (35) [Deleted by 2018 amendment; transferred to § 4-29-241.]
- (36) [Deleted by 2018 amendment; transferred to § 4-29-247.]
- (37) [Deleted by 2018 amendment; transferred to § 4-29-241.]
- (38) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (39) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (40) [Deleted by 2018 amendment; transferred to § 4-29-242.]
- (41) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (42) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (43) [Deleted by 2019 amendment; transferred to § 4-29-242.]
- (44) [Deleted by 2018 amendment; transferred to § 4-29-244.]
- (45) [Deleted by 2018 amendment; transferred to § 4-29-242.]
- (46) [Deleted by 2018 amendment; transferred to § 4-29-245.]
- (47) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (48) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (49) [Deleted by 2018 amendment; transferred to § 4-29-244.]
- (50) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (51) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (52) [Deleted by 2018 amendment; transferred to § 4-29-243.]
- (53) [Deleted by 2018 amendment; transferred to § 4-29-244.]
- (54) [Deleted by 2018 amendment; transferred to § 4-29-241.]

(b) Each department, commission, board, agency or council of state government created during calendar year 2016 terminates on June 30, 2018.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-240. Governmental entities terminated on June 30, 2019.

(a) The following governmental entities shall terminate on June 30, 2019:

- (1) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (2) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (3) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (4) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (5) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (6) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (7) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (8) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (9) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (10) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (11) [Deleted by 2019 amendment; transferred to § 4-29-246.]

- (12) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (13) [Deleted by 2019 amendment; transferred to § 4-29-243.]
- (14) [Deleted by 2019 amendment; transferred to § 4-29-248.]
- (15) [Deleted by 2019 amendment; transferred to § 4-29-245.]
- (16) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (17) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (18) [Deleted by 2019 amendment; transferred to § 4-29-243.]
- (19) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (20) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (21) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (22) [Deleted by 2019 amendment; transferred to § 4-29-241.]
- (23) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (24) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (25) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (26) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (27) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (28) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (29) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (30) [Deleted by 2019 amendment.]
- (31) [Deleted by 2019 amendment; transferred to § 4-29-242.]
- (32) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (33) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (34) [Deleted by 2019 amendment; transferred to § 4-29-242.]
- (35) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (36) [Deleted by 2019 amendment; transferred to § 4-29-248.]
- (37) [Deleted by 2019 amendment; transferred to § 4-29-248.]
- (38) [Deleted by 2019 amendment; transferred to § 4-29-245.]
- (39) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (40) [Deleted by 2019 amendment; transferred to § 4-29-245.]
- (41) [Deleted by 2019 amendment; transferred to § 4-29-241.]
- (42) [Deleted by 2018 amendment; transferred to § 4-29-241.]
- (43) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (44) [Deleted by 2019 amendment; transferred to § 4-29-248.]
- (45) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (46) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (47) [Deleted by 2019 amendment; transferred to § 4-29-242.]
- (48) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (49) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (50) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (51) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (52) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (53) [Deleted by 2019 amendment; transferred to § 4-29-246.]
- (54) [Deleted by 2019 amendment; transferred to § 4-29-245.]
- (55) [Deleted by 2019 amendment; transferred to § 4-29-244.]
- (56) [Repealed by 2019 amendment.]
- (57) [Deleted by 2019 amendment; transferred to § 4-29-246.]

(b) Each department, commission, board, agency, or council of state government created during calendar year 2017 terminates on June 30, 2019.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished or restructured in accordance with this chapter.

4-29-241. Governmental entities terminated on June 30, 2020.

(a) The following governmental entities shall terminate on June 30, 2020:

(1) Advisory council for the education of students with disabilities, created by § 49-10-105;

(2) Advisory council on state procurement, created by § 4-56-106;

(3) Advisory council on workers' compensation, created by § 50-6-121;

(4) Beech River watershed development authority, board of directors, created by § 64-1-101;

(5) Board for licensing healthcare facilities, created by § 68-11-203;

(6) Board of examiners for architects and engineers, created by § 62-2-201;

(7) Board of law examiners, created by § 23-1-101;

(8) Board of medical examiners, created by § 63-6-101;

(9) Board of social work licensure, created by § 63-23-101;

(10) Carroll County watershed authority, created by § 64-1-801;

(11) Chickasaw basin authority, created by § 64-1-201;

(12) Civil Defense and Disaster Compact, created by § 58-2-402;

(13) Commission on children and youth, created by § 37-3-102;

(14) Committee for clinical perfusionists, created by § 63-28-112;

(15) Department of correction, created by §§ 4-3-101 and 4-3-601;

(16) Department of finance and administration, created by §§ 4-3-101 and 4-3-1001;

(17) Department of general services, created by §§ 4-3-101 and 4-3-1101;

(18) Department of intellectual and developmental disabilities, created by §§ 4-3-101 and 4-3-2701;

(19) Department of labor and workforce development, created by §§ 4-3-101 and 4-3-1403;

(20) Department of safety, created by §§ 4-3-101 and 4-3-2001;

(21) Department of transportation, created by §§ 4-3-101 and 4-3-2301;

(22) Doe Mountain recreation authority, created by § 11-25-103;

(23) Douglas Henry state museum commission, created by § 4-20-301;

(24) Dyslexia advisory council, created by § 49-1-229;

(25) Emergency Management Assistance Compact, created by § 58-2-403;

(26) Human rights commission, created by § 4-21-201;

(27) Integrated criminal justice steering committee, created by § 16-3-815;

(28) Interstate Earthquake Compact of 1988, created by § 58-2-701;

(29) Interstate Nurse Licensure Compact, created by § 63-7-401;

(30) Local education insurance committee, created by § 8-27-301;

(31) Local government insurance committee, created by § 8-27-701;

(32) Local government planning advisory committee, created by § 4-3-727;

(33) Office of business enterprise, created by § 4-26-101;

(34) Pest control board, created by § 62-21-104;

(35) Physical therapy licensure compact, created by § 63-13-401;

(36) Polysomnography professional standards committee, created by § 63-31-103;

(37) Rail service authorities, created by § 7-56-201;

(38) Real estate commission, created by § 62-13-201;

(39) Regional transportation authority of Middle Tennessee, created by

§ 64-8-101;

(40) Sequatchie Valley planning and development agency, created by §§ 64-1-501 and 64-1-502;

(41) Soil scientist advisory committee, created by § 62-18-210;

(42) South Central Tennessee railroad authority, created by § 64-2-201;

(43) Southern Regional Education Compact, created by § 49-12-101;

(44) State board for licensing alarm systems contractors, created by § 62-32-306;

(45) State board for licensing contractors, created by § 62-6-104;

(46) State board of accountancy, created by § 62-1-104;

(47) State building commission, created by § 4-15-101;

(48) State capitol commission, created by § 4-8-301;

(49) State energy policy council, created by § 68-204-101;

(50) State insurance committee, created by § 8-27-201;

(51) State palliative care and quality of life council, created by § 71-2-116;

(52) State procurement commission, created by § 4-56-102;

(53) State protest committee, created by § 4-56-103;

(54) [Deleted by 2019 amendment; transferred to § 4-29-242.]

(55) State textbook and instructional materials quality commission, created by § 49-6-2201;

(56) [Deleted by 2016 amendment, commission terminated.]

(57) Tellico Reservoir development agency, created by § 64-1-701;

(58) Tennessee commission on aging and disability, created by § 71-2-104;

(59) Tennessee corrections institute, board of control, created by § 41-7-105;

(60) Tennessee council for the deaf, deaf-blind, and hard of hearing, created by § 71-4-2102;

(61) Tennessee Duck River development agency, created by §§ 64-1-601 and 64-1-602;

(62) Tennessee emergency management agency, created by § 58-2-103;

(63) Tennessee motor vehicle commission, created by § 55-17-103;

(64) Tennessee radiologic imaging and radiation therapy board of examiners, created by § 63-6-901;

(65) Tri-county railroad authority, created by § 64-2-301;

(66) University of Tennessee, board of trustees, created by § 49-9-202;

(67) Utility management review board, created by § 7-82-701;

(68) West Fork Drakes Creek dam and reservoir interstate authority, created by § 64-1-901; and

(69) West Tennessee River basin authority, created by § 64-1-1101.

(b) Each department, commission, board, agency or council of state government created during calendar year 2018 terminates on June 30, 2020.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished or restructured in accordance with this chapter.

4-29-242. Governmental entities terminated on June 30, 2021.

(a) The following governmental entities terminate on June 30, 2021:

(1) Alcoholic beverage commission, created by § 57-1-102;

(2) Austin Peay State University, board of trustees, created by §§ 49-8-101 and 49-8-201;

- (3) Beef promotion board, created by § 43-29-118;
- (4) Board of chiropractic examiners, created by § 63-4-102;
- (5) Board of communication disorders and sciences, created by § 63-17-104;
- (6) Board of dentistry, created by § 63-5-101;
- (7) Board of dispensing opticians, created by § 63-14-101;
- (8) Board of examiners in psychology, created by § 63-11-101;
- (9) Board of medical examiners' committee on physician assistants, created by § 63-19-103;
- (10) Board of nursing, created by § 63-7-201;
- (11) Board of optometry, created by § 63-8-103;
- (12) Board of podiatric medical examiners, created by § 63-3-103;
- (13) Board of veterinary medical examiners, created by § 63-12-104;
- (14) Bureau of ethics and campaign finance, created by § 4-55-101;
- (15) Committee for purchase from the blind and other severely disabled, created by § 71-4-703;
- (16) Consumer advocate division in the office of the attorney general and reporter, created by § 65-4-118;
- (17) Delta human resource agency, created by § 13-26-102;
- (18) Department of children's services, created by §§ 4-3-101 and 37-5-101;
- (19) Department of economic and community development, created by §§ 4-3-101 and 4-3-701;
- (20) Department of financial institutions, created by §§ 4-3-101 and 4-3-401;
- (21) Department of mental health and substance abuse services, created by §§ 4-3-101 and 4-3-1601;
- (22) East Tennessee human resource agency, created by § 13-26-102;
- (23) East Tennessee State University, board of trustees, created by §§ 49-8-101 and 49-8-201;
- (24) Egg promotion board, created by § 43-29-120;
- (25) Emergency communications board, created by § 7-86-302;
- (26) First Tennessee human resource agency, created by § 13-26-102;
- (27) Health services and development agency, created by § 68-11-1604;
- (28) [Deleted by 2018 amendment; transferred to § 4-29-241.]
- (29) James K. Polk memorial association, created by § 4-13-201;
- (30) Mid-Cumberland human resource agency, created by § 13-26-102;
- (31) Middle Tennessee State University, board of trustees, created by §§ 49-8-101 and 49-8-201;
- (32) Northwest Tennessee human resource agency, created by § 13-26-102;
- (33) Occupational safety and health review commission, created by § 50-3-801;
- (34) Ocoee River recreation and economic development fund board, created by § 11-8-104;
- (35) Pork promotion board, created by § 43-29-119;
- (36) Private probation services council, created by § 16-3-901;
- (37) Second look commission, created by § 37-3-803;
- (38) South Central Tennessee human resource agency, created by § 13-26-102;
- (39) Southeast Tennessee human resource agency, created by

§ 13-26-102;

(40) Southeastern Interstate Forest Fire Protection Compact, created by § 11-4-501;

(41) Southwest Tennessee human resource agency, created by § 13-26-102;

(42) State Alzheimer's disease and related dementia advisory council, created by § 71-2-117;

(43) State board of equalization, created by § 4-3-5101;

(44) State board of examiners for land surveyors, created by § 62-18-103;

(45) State forestry commission, created by § 11-4-201;

(46) State TennCare pharmacy advisory committee, created by § 71-5-2401;

(47) Statewide community services agency, created by § 37-5-305;

(48) Statewide planning and policy council for the department of mental health and substance abuse services, created by § 33-1-401;

(49) Tennessee advisory commission on intergovernmental relations, created by § 4-10-102;

(50) Tennessee aeronautics commission, created by § 42-2-301;

(51) Tennessee athletic commission, created by § 68-115-103;

(52) Tennessee board of judicial conduct, created by § 17-5-201;

(53) Tennessee bureau of investigation, created by § 38-6-101;

(54) Tennessee council for career and technical education, created by § 49-11-201;

(55) Tennessee council on autism spectrum disorder, created by § 4-3-2711;

(56) Tennessee dairy promotion committee, created by § 44-19-114;

(57) Tennessee financial literacy commission, created by § 49-6-1702;

(58) Tennessee public school charter commission, as created by § 49-13-105;

(59) Tennessee public utility commission, created by § 65-1-101;

(60) Tennessee soybean promotion board, created by § 43-20-102;

(61) Tennessee State University, board of trustees, created by §§ 49-8-101 and 49-8-201:

(62) Tennessee Technological University, board of trustees, created by §§ 49-8-101 and 49-8-201:

(63) Tennessee technology development corporation, created by § 4-14-301;

(64) Tennessee wine and grape board, created by § 57-3-1101;

(65) University of Memphis, board of trustees, created by §§ 49-8-101 and 49-8-201; and

(66) Upper Cumberland human resource agency, created by § 13-26-102.

(b) Each department, commission, board, agency, or council of state government created during calendar year 2019 shall terminate on June 30, 2021.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-243. Governmental entities terminated on June 30, 2022.

(a) The following governmental entities shall terminate on June 30, 2022:

(1) Advisory board for rehabilitation centers, created by § 49-11-704;

- (2) Applied behavior analyst licensing committee of the board of examiners in psychology, created by § 63-11-303;
- (3) Archaeological advisory council, created by § 11-6-103;
- (4) Board of athletic trainers, created by § 63-24-102;
- (5) Board of dietitian/nutritionist examiners, created by § 63-25-106;
- (6) Board of examiners for nursing home administrators, created by § 63-16-102;
- (7) Board of parole, created by § 40-28-103;
- (8) Board of respiratory care, created by § 63-27-103;
- (9) Bureau of TennCare within the department of finance and administration, pursuant to Executive Order No. 23 on October 19, 1999;
- (10) Council for licensing hearing instrument specialists, created by § 63-17-202;
- (11) Council of certified professional midwifery, created by § 63-29-103;
- (12) Council on children's mental health care, created by § 37-3-111;
- (13) Department of agriculture, created by §§ 4-3-101 and 4-3-201;
- (14) Department of education, created by §§ 4-3-101 and 4-3-801;
- (15) Department of human services, created by §§ 4-3-101 and 4-3-1201;
- (16) Department of revenue, created by §§ 4-3-101 and 4-3-1901;
- (17) Department of tourist development, created by §§ 4-3-101 and 4-3-2201;
- (18) Department of veterans services, created by §§ 4-3-101 and 4-3-2501;
- (19) Domestic violence state coordinating council, created by § 38-12-101;
- (20) Great Smoky Mountains Park commission, created by § 11-19-101;
- (21) Housing development agency, board of directors, created by § 13-23-104;
- (22) Interstate Compact on Mental Health, created by § 33-9-201;
- (23) Interstate Compact on the Placement of Children, created by § 37-4-201;
- (24) Interstate Insurance Product Regulation Compact of 2007, created by § 56-58-101;
- (25) Memphis regional megasite authority, created pursuant to § 64-6-101;
- (26) School bond authority, created by § 49-3-1204;
- (27) Southeast Interstate Low-Level Radioactive Waste Compact, created by § 68-202-701;
- (28) State board of cosmetology and barber examiners, created by §§ 62-3-101 and 62-4-103;
- (29) State family support council, created by § 33-5-208;
- (30) State soil conservation committee, created by § 43-14-203;
- (31) State university and community college system, board of regents, created by § 49-8-201;
- (32) Statewide planning and policy council for the department of intellectual and developmental disabilities, created by § 33-5-601;
- (33) Tennessee advisory committee for acupuncture, created by § 63-6-1003;
- (34) Tennessee arts commission, created by § 4-20-101;
- (35) Tennessee center for earthquake research and information, created by § 49-8-602;
- (36) Tennessee emergency medical services board, created by

§ 68-140-303;

(37) Tennessee film, entertainment and music commission, created by § 4-3-5003;

(38) Tennessee fish and wildlife commission, created by § 70-1-201;

(39) Tennessee higher education commission, created by § 49-7-201;

(40) Tennessee life and health insurance guaranty association, created by § 56-12-205;

(41) Tennessee massage licensure board, created by § 63-18-103;

(42) Tennessee medical laboratory board, created by § 68-29-109;

(43) Tennessee rehabilitative initiative in correction board, created by § 41-22-404;

(44) Tennessee residence commission, created by § 4-23-202;

(45) Tennessee sports hall of fame, created by § 4-3-5403;

(46) Tennessee student assistance corporation, board of directors, created by § 49-4-202; and

(47) Water and wastewater operators, board of certification, created by § 68-221-905.

(b) Each department, commission, board, agency or council of state government created during calendar year 2020 terminates on June 30, 2022.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-244. Governmental entities terminated on June 30, 2023. [See contingent amendment to subdivision (a)(19) and Compiler's Notes.]

(a) The following governmental entities shall terminate on June 30, 2023:

(1) Board for professional counselors, marital and family therapists, and clinical pastoral therapists, created by § 63-22-101;

(2) Board of appeals for the department of human resources, created by § 8-30-108;

(3) Board of boiler rules, created by § 68-122-101;

(4) Board of pharmacy, created by § 63-10-301;

(5) Board of trustees of the college savings trust fund program, created by § 49-7-804;

(6) Controlled substance database advisory committee, created by § 53-10-303;

(7) Department of commerce and insurance, created by §§ 4-3-101 and 4-3-1301;

(8) Department of environment and conservation, created by §§ 4-3-101 and 4-3-501;

(9) Department of health, created by §§ 4-3-101 and 4-3-1801;

(10) Department of human resources, created by §§ 4-3-101 and 4-3-1701;

(11) Elevator and amusement device safety board, created by § 68-121-102;

(12) Employee suggestion award board, created by § 4-27-102;

(13) Energy efficient schools council, created by § 49-17-103;

(14) Prevailing wage commission, created by § 12-4-404;

(15) Sam Davis memorial association, board of trustees, created by § 4-13-301;

- (16) Selection panel for TennCare reviewers, created by § 56-32-126;
 - (17) State unemployment compensation advisory council, created by § 50-7-606;
 - (18) [Deleted by 2019 amendment; transferred to § 4-29-241.]
 - (19) **[Current version. See second version for contingent amendment and Compiler's Notes.]** Tennessee board of water quality, oil, and gas, created by § 69-3-104;
 - (19) **[Contingent amendment. See the Compiler's Notes.]** Tennessee board of energy and natural resources, created by § 69-3-104;
 - (20) Tennessee consolidated retirement system, board of trustees, created by § 8-34-301;
 - (21) Tennessee heritage conservation trust fund board of trustees, created by § 11-7-104;
 - (22) Tennessee interagency cash flow committee, created by § 9-4-610;
 - (23) Tennessee state veterans' homes board, created by § 58-7-102;
 - (24) Underground storage tanks and solid waste disposal control board, created by § 68-211-111; and
 - (25) Underground utility damage enforcement board, created by § 65-31-114.
- (b) Each department, commission, board, agency, or council of state government created during calendar year 2021 terminates on June 30, 2023.
- (c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-245. Governmental entities terminated on June 30, 2024.

- (a) The following governmental entities shall terminate on June 30, 2024:
- (1) Board of funeral directors and embalmers, created by § 62-5-201;
 - (2) Bureau of workers' compensation, created by § 4-3-1408;
 - (3) Child care agency licensing board of review, created by § 71-3-510;
 - (4) Collection service board, created by § 62-20-104;
 - (5) Commission for uniform legislation, created by § 4-9-101;
 - (6) Compact for Education, created by § 49-12-201;
 - (7) Interstate Mining Compact, created by § 59-10-101;
 - (8) Medical advisory committee, created by § 50-6-135;
 - (9) Medical payment committee, created by § 50-6-125;
 - (10) Private investigation and polygraph commission, created by § 62-26-301;
 - (11) Public records commission, created by § 10-7-302;
 - (12) Real estate appraiser commission, created by § 62-39-201;
 - (13) Standards committee, department of children's services, created by § 37-5-516;
 - (14) State board of education, created by § 49-1-301;
 - (15) State election commission, created by § 2-11-101;
 - (16) State funding board, created by § 9-9-101;
 - (17) Tennessee auctioneer commission, created by § 62-19-104;
 - (18) Tennessee board of court reporting, created by § 20-9-604;
 - (19) Tennessee central economic authority, created by § 64-5-101;
 - (20) Tennessee-Tombigbee waterway development authority, created by § 69-8-101; and

(21) Trial court vacancy commission, created by § 17-4-301.

(b) Each department, commission, board, agency, or council of state government created during calendar year 2022 terminates on June 30, 2024.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-246. Governmental entities terminated on June 30, 2025.

(a) The following governmental entities shall terminate on June 30, 2025:

(1) Advisory committee for children's special services, created by § 68-12-106;

(2) Air pollution control board, created by § 68-201-104;

(3) Board of alcohol and drug abuse counselors, created by § 68-24-601;

(4) Board of claims, created by § 9-8-101;

(5) Board of ground water management, created by § 69-10-107;

(6) Board of occupational therapy, created by § 63-13-216;

(7) Board of osteopathic examination, created by § 63-9-101;

(8) Board of physical therapy, created by § 63-13-318;

(9) Commission on firefighting personnel standards and education, created by § 4-24-101;

(10) Council on pensions and insurance, created by § 3-9-101;

(11) Genetic advisory committee, created by § 68-5-503;

(12) Industrial development division, building finance committee, created by § 4-14-109;

(13) Information systems council, created by § 4-3-5501;

(14) Interstate Compact on Detainers, created by § 40-31-101;

(15) Interstate Corrections Compact, created by § 41-23-102;

(16) Perinatal advisory committee, created by § 68-1-803;

(17) Standards committee, department of human services, created by § 71-3-511;

(18) Tennessee claims commission, created by § 9-8-301;

(19) Tennessee code commission, created by § 1-1-101;

(20) Tennessee community resource board, created by § 41-10-105.

(21) Tennessee historical commission, created by § 4-11-102;

(22) Tennessee medical examiner advisory council, created by § 38-7-201;

(23) Tennessee peace officers standards and training commission, created by § 38-8-102;

(24) Tennessee public television council, created by § 49-50-905;

(25) Tennessee wars commission, created by § 4-11-301;

(26) Traumatic brain injury advisory council, created by § 68-55-102; and

(27) Wastewater financing board, created by § 68-221-1008;

(b) Each department, commission, board, agency, or council of state government created during calendar year 2023 terminates on June 30, 2025.

(c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-29-248. Governmental entities terminated on June 30, 2027.

(a) The following governmental entities terminate on June 30, 2027:

(1) Child care advisory council, created by § 49-1-302;

60

- (2) Southern states energy board, created by § 68-202-601;
- (3) Southern States Nuclear Compact, created by § 68-202-601; and
- (4) Tennessee agricultural hall of fame board, created by § 43-1-601;
- (b) Each department, commission, board, agency, or council of state government created during calendar year 2025 terminates on June 30, 2027.
- (c) Any governmental entity that has been terminated under this section may be continued, reestablished, or restructured in accordance with this chapter.

4-32-101. Creation.

There is established a “governor’s office of faith-based and community initiatives,” referred to as the “office” in this chapter.

4-32-102. Purposes.

In order to maximize the effectiveness of state government through collaboration with faith-based and community initiatives to serve Tennesseans with respect to public purposes, such as improving public safety, overcoming addiction, strengthening families and communities, and overcoming poverty, the office shall, to the extent permitted by law:

- (1) Promote and foster the development of relationships and coordination between state government and faith-based and community initiatives and serve as a resource for and liaison between state government and such initiatives;
- (2) Coordinate activities designed to mobilize public support for faith-based and community initiatives through volunteerism, special projects, and public-private partnerships;
- (3) Raise ideas and policy options to the governor that would assist, strengthen, expand, or replicate successful faith-based and community programs;
- (4) Ensure that state government decisions and programs are consistent with the goal of partnering with faith-based and community initiatives when doing so is in the public interest and monitor how such decisions and programs affect faith-based and community initiatives;
- (5) Work with state, local, and community policymakers, volunteers, and public officials to facilitate coordination with and empowerment of faith-based and other community organizations where doing so would improve such groups’ service to the communities involved; and
- (6) Showcase and herald successful and innovative faith-based and community organizations and civic initiatives.

4-32-103. Nonprofit partnerships.

- (a) The office may partner with a nonprofit public benefit corporation that is organized to maximize the effectiveness of faith-based and community initiatives in serving Tennesseans with respect to public purposes, in order to carry out the purposes of the office.
- (b) The governor shall select the members of the board of directors of the nonprofit partner. The nonprofit partner’s board may select its own chair. The nonprofit partner has an executive director, who is selected by the governor.
- (c) The nonprofit partner shall be properly incorporated under the laws of

the state of Tennessee and approved by the internal revenue service as an organization that is exempt from federal income tax under § 501(a) of the Internal Revenue Code (26 U.S.C. § 501(a)), by virtue of being an organization described in § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)).

(d) The nonprofit partner may receive and solicit funds from the general public in accordance with title 48, chapter 101, part 5.

(e) Costs to underwrite the nonprofit partner's activities related to the office must be borne from revenues of the nonprofit partner, and no state employee shall benefit from such proceeds.

(f) The nonprofit partner may exercise all powers authorized under the Tennessee Nonprofit Corporation Act, compiled in title 48, chapters 51-69.

(g) The nonprofit partner may receive staff and other assistance from any department, agency, board or commission, or other division of state government.

(h) Subject to existing statutes, rules, and policies, the nonprofit partner may enter into agreements with state government for procurement of office space, supplies, and other items, as necessary to effectively carry out the purposes of this chapter.

4-32-104. Expenses and administration.

(a) It is the intent of the general assembly that the state shall realize no increased cost as a result of this chapter.

(b) For administrative purposes, the office is attached to the department of finance and administration.

(c) Any department, agency, board or commission, or other division of state government may provide staff and other assistance to the office, and all departments, agencies, boards and commissions, and other divisions of state government shall fully cooperate with the office and shall provide staff support and other assistance as reasonably required, subject to existing statutes, rules, and policies.

(d) The office may enter into such contractual and promotional agreements necessary to maximize the effectiveness of state government through collaboration with faith-based and community initiatives to serve Tennesseans with respect to public purposes.

(e) The office may work with local governments, private organizations, and citizens as it plans and engages in activities related to the office.

4-32-105. Retirement benefits.

(a) The nonprofit partner shall be eligible to be a participating employer in the Tennessee consolidated retirement system upon passage of a resolution by the nonprofit's board of directors authorizing:

(1) An actuarial study; and

(2) Participation, and accepting the liability as a result of the participation, by its full-time employees.

(b) The employees of the nonprofit partner must make the same contributions, participate in the same manner, and are eligible for the same benefits as employees of local governments participating in the retirement system under title 8, chapter 35, part 2.

(c) The employees of the nonprofit partner are entitled to credit for prior service, as approved by the board of directors of the nonprofit, under the same

provisions that apply to employees of local governments.

(d) The retirement system is not liable for the payment of retirement allowances or other payments on account of employees of the nonprofit partner, or the beneficiaries of such employees, for which reserves have not been previously created from funds contributed by the nonprofit partner, its employees, or the nonprofit partner and its employees.

(e) In case of the withdrawal of the nonprofit partner as a participating employer, the benefits of the members and beneficiaries shall be determined in accordance with § 8-35-211.

(f) All costs associated with retirement coverage, including administrative costs, are the responsibility of the nonprofit partner.

4-32-106. Health benefits.

The nonprofit partner may participate, the same as an eligible quasi-governmental organization, in the health insurance plan authorized under § 8-27-702, to provide health insurance for its employees, as long as such nonprofit partner satisfies each of the requirements of § 8-27-702. This participation shall be governed by, and subject to, the provisions of title 8, chapter 27, part 7.

4-32-107. Annual reports and audits.

(a) The nonprofit partner shall annually submit to the governor and the speakers of the senate and the house of representatives, within ninety (90) days after the end of its fiscal year, a report setting forth its operation and accomplishments.

(b) The nonprofit partner is subject to examination and audit by the comptroller of the treasury in the same manner as prescribed for departments and agencies of the state.

4-44-101. Short title. [Effective until December 31, 2027.]

This chapter shall be known and may be cited as the “Tennessee Commission for the United States Semiquincentennial Commission Act.”

4-44-102. Part definition. [Effective until December 31, 2027.]

As used in this chapter, “Commission” means the Tennessee commission for the United States semiquincentennial commission.

4-44-103. Establishment. [Effective until December 31, 2027.]

The commission is established to plan, encourage, develop, and coordinate the commemoration of the 250th anniversary of the founding of the United States, and recognize Tennessee’s integral role in that event and the impact of its people on the nation’s past, present, and future.

4-44-104. Membership. [Effective until December 31, 2027.]

The commission consists of thirteen (13) ex officio voting members as follows:

- (1) The commissioner of tourist development;
- (2) The state historian;
- (3) The executive director of the Tennessee historical society;

- (4) The executive director of the Tennessee historical commission;
- (5) The state librarian and archivist;
- (6) The president of the Tennessee Sons of the American Revolution;
- (7) The state regent of the Tennessee Society, Daughters of the American Revolution;
- (8) Two (2) members of the house of representatives, to be appointed by the speaker of the house of representatives;
- (9) Two (2) members of the senate, to be appointed by the speaker of the senate;
- (10) The museum executive director of the state museum; and
- (11) The executive director of the East Tennessee historical society.

4-44-105. Terms of members — Vacancy. [Effective until December 31, 2027.]

Members are appointed for the duration of the commission, but serve only so long as they remain in their official position as described in § 4-44-104. A vacancy on the commission does not affect the powers of the commission and is filled in the same manner as the original appointment.

4-44-106. Meetings. [Effective until December 31, 2027.]

Meetings of the commission are held throughout the state at times and locations to be determined by the chair, who is selected by a majority vote of the commission and may serve up to two (2) consecutive two-year terms. The first meeting of the commission is to be called by the commissioner of tourist development. A majority of the members of the commission constitutes a quorum.

4-44-107. Duties of the commission. [Effective until December 31, 2027.]

The commission shall:

- (1) Plan, coordinate, and implement a program to commemorate the 250th anniversary of the founding of the United States in the year 2026, specifically highlighting the role of Tennessee and Tennesseans in, and the events succeeding, the historic event; and
- (2) Coordinate with federal, state, and local agencies on infrastructural improvements and projects to welcome regional, national, and international tourists.

4-44-108. Development of plan and overall program for event. [Effective until December 31, 2027.]

In developing the plan and overall program for the event, the commission:

- (1) Shall give due consideration to related plans and programs developed by federal, state, local, and private groups;
- (2) May designate special committees with representatives from groups described in subdivision (1) to plan, develop, and coordinate specific activities;
- (3) Shall hold public meetings to solicit the input of citizens throughout the state in developing programs for the semiquincentennial. The meetings shall be held within ninety (90) days of the commission's first meeting and

64

throughout the commission's existence;

(4) Shall showcase all counties in this state;

(5) Shall draw attention to the achievements, struggles, honors, innovations, and impacts of all people in this state; and

(6) Shall clearly delineate all expenses incurred by the commission in developing the program.

4-44-109. Comprehensive report containing specific recommendations for the commemoration. [Effective until December 31, 2027.]

(a) No later than one (1) year after July 1, 2019, the commission shall submit a comprehensive report to the governor, the speaker of the senate, and the speaker of the house of representatives that contains the commission's specific recommendations for the commemoration of the 250th anniversary of the founding of the United States and related events.

(b) The report must include:

(1) A detailed timeline of the commission's plan for the event through 2027;

(2) The commission's recommendations for the allocation of costs among public and private entities that provide financial and administrative assistance to the commission;

(3) The projected number of jobs created through the implementation of the commission's plan and overall program;

(4) The projected economic impact of the implementation of the commission's plan and overall program;

(5) The geographic impact of the commission's plan and overall program on all counties of this state;

(6) A plan for improvements, if any, to the infrastructure of the state necessary to ensure the success of the commission's plan and overall program; and

(7) Outputs and outcomes against which progress and success of the commission's plan and overall program can be measured.

(c) The report may include recommendations for legislation necessary to effectuate the plan and overall program.

(d) The commission shall make the report available to the public on the commission's internet website.

4-44-110. Attachment to department of tourist development — Assistance of agencies of state government. [Effective until December 31, 2027.]

The commission is administratively attached to the department of tourist development. All appropriate agencies of state government shall provide assistance to the commission upon request of the commission.

4-44-111. Gifts and donations. [Effective until December 31, 2027.]

The commission may accept, use, and dispose of gifts and donations of money, property, or personal services. Information relating to the gifts must be enumerated and submitted to the Tennessee ethics commission each quarter and must be made available to the public on the commission's internet website.

4-44-112. Authority of the commission. [Effective until December 31, 2027.]

- (a) The commission may:
 - (1) Procure supplies, services, and property;
 - (2) Enter into contracts;
 - (3) Expend, in furtherance of this chapter, funds donated or received in pursuance of contracts entered into under this chapter; and
 - (4) Take action as necessary to enable the commission to effectuate the purposes of this chapter.
- (b) Any action taken pursuant to subsection (a) must first be approved by majority vote of the commission.

4-44-113. Property acquired by the commission — Disposition. [Effective until December 31, 2027.]

Property acquired by the commission that remains after the termination of the commission may be designated by an act of the general assembly for donation to local municipalities or state agencies.

4-44-114. Expense reimbursement for commission members — Appointment of executive director and other personnel. [Effective until December 31, 2027.]

(a) Commission members will receive no compensation for their work with the commission but may receive reimbursement for travel expenses incurred in attending meetings of the commission in accordance with the comprehensive travel regulations, as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(b)(1) The chair of the commission may appoint an executive director and other personnel necessary for the commission to perform its powers and duties, subject to the approval of a majority vote of the entire membership of the commission.

(2) No person appointed or employed under this chapter is eligible to participate in the state retirement system solely on the basis of such appointment to or employment with the commission.

4-44-115. Annual report. [Effective until December 31, 2027.]

The commission shall submit an annual report to the governor and the general assembly detailing the commission's activities on or before December 31 of each year. The report must include an accounting of funds received and expended during the year covered by the report, the outputs and outcomes achieved, and whether those achievements meet the commission's plan and overall program goals. The commission shall make the report available to the public on the commission's website.

4-44-116. Repealer. [Effective until December 31, 2027.]

This chapter shall be repealed and the commission shall cease to exist on December 31, 2027.

4-51-103. Board of directors — Appointment, duties.

- (a) The corporation shall be governed by a board of directors composed of

seven (7) directors.

(b) The directors shall be residents of the state of Tennessee, shall have expertise in their businesses or professions, and shall be appointed by the governor. All appointments shall be filed with the secretary of state within five (5) working days of appointment.

(c)(1) No person shall serve as a director of the corporation who has been convicted of:

(A) Any felony;

(B) A misdemeanor involving gambling, theft, computer offenses, forgery, perjury, dishonesty or unlawfully selling or providing a product or substance to a minor;

(C) Any violation of this chapter; or

(D) Any offense in a federal court, military court, or court of another state, territory or jurisdiction that under the laws of this state would disqualify such person pursuant to subdivision (c)(1)(A), (c)(1)(B), or (c)(1)(C).

(2) Prior to the appointment of a person as a director, the governor shall submit the names of potential directors to the Tennessee bureau of investigation and the Tennessee bureau of investigation, pursuant to § 38-6-109, shall conduct a criminal history records check on all such persons. The Tennessee bureau of investigation may contract with the federal bureau of investigation, other law enforcement agency or any other legally authorized entity to assist in such investigation. Such persons shall supply a fingerprint sample on request and in the manner requested by the investigating entity. The Tennessee bureau of investigation shall conduct such investigation as soon as practicable after submission of names by the governor. The corporation shall pay, as an operating expense, the cost of the records check. The results of such a records check shall not be considered a record open to the public pursuant to title 10, chapter 7, part 5.

(d) In making the appointments pursuant to subsection (b), the governor shall strive to ensure that the board is composed of directors who are diverse in professional or educational background, ethnicity, race, gender, geographic residency, heritage, perspective and experience.

(e)(1) Directors shall serve terms of five (5) years; provided, however, that of the initial directors appointed:

(A) Two (2) directors shall be appointed for an initial term of one (1) year;

(B) Three (3) directors shall be appointed for an initial term of three (3) years; and

(C) Two (2) directors shall be appointed for an initial term of five (5) years.

(2) After the initial terms, directors shall be appointed to serve five-year terms.

(f) All appointments of the directors shall be confirmed by joint resolution adopted by each house of the general assembly prior to the commencement of the term of office to which such director is appointed. If the general assembly is not in session when initial appointments are made, all initial appointees shall serve the terms prescribed pursuant to subsection (e), unless such appointments are not confirmed within thirty (30) days after the general assembly next convenes following such appointments. Any vacancy on the board shall be filled by the governor to serve the unexpired term and such

appointment shall be confirmed in the same manner as the original appointment. However, if the general assembly is not in session and a vacancy occurs, the governor shall fill such vacancy by appointment and the appointee to such vacancy shall serve the unexpired term unless such appointment is not confirmed within thirty (30) days after the general assembly next convenes following the appointment to fill such vacancy.

(g) The term of office of each director shall commence on July 1, following such director's appointment; provided, however, that the term of office for each initial director shall commence on the date of appointment but shall be calculated, for purposes of the term, from July 1, 2003. Notwithstanding this section, at the end of the director's term, the director shall continue to serve until a replacement is appointed by the governor. All initial appointments of directors shall be made on or before July 1, 2003.

(h) A director of the board, or any member of their immediate family, shall not have a direct or indirect interest at the time of their appointment, or within a period of two (2) years prior to their appointment, in any undertaking that puts their personal interest in conflict with that of the corporation, including, but not limited to, any interest, through ownership, stock or otherwise, in a major procurement contract or a participating retailer; provided, however, that a director, or a member of such director's immediate family, may hold an incidental interest not to exceed one percent (1%) of the outstanding stock of a participating retailer.

(i) The directors shall elect from their membership a chair and vice chair. The directors shall also elect a secretary and treasurer who may, from time-to-time, serve as the acting chief executive officer of the corporation. Such officers shall serve for such terms as shall be prescribed by the bylaws of the corporation or until their respective successors are elected and qualified. No director of the board shall hold more than one (1) office of the corporation, except that the same director may serve as secretary and treasurer.

(j) The board of directors may delegate to one (1) or more of its members, to the chief executive officer, or to any agent or employee of the corporation such powers and duties as it may deem proper.

(k) A majority of the directors in office shall constitute a quorum for the transaction of any business and for the exercise of any power or function of the corporation.

(l) Action may be taken and motions and resolutions adopted by the board at any board meeting by the affirmative vote of a majority of present and voting directors.

(m) No vacancy in the membership of the board shall impair the right of the directors to exercise all the powers and perform all the duties of the board.

(n)(1) Upon approval by the chair, directors of the board shall be reimbursed for actual and reasonable expenses incurred or a per diem not to exceed the per diem provided to members of the general assembly pursuant to § 3-1-106 for each day's service spent in the performance of the duties of the corporation or both.

(2) Directors shall not receive a salary for their duties.

(o)(1) The governor may remove a director for neglect of duty or misconduct in office.

(2) If the governor seeks removal of a director pursuant to this subsection (o), the governor shall deliver to the director a copy of the charges levied against such director together with a notice of hearing affording such

director an opportunity to be heard in person or by counsel to defend publicly against such charges prior to removal. The notice of hearing shall be served upon the director no later than ten (10) days prior to the hearing date.

(3) If such director is removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against the director and the governor's findings regarding the charges, together with a complete record of the proceedings.

(4) If a director is removed, such vacancy shall be filled in the same manner as other vacancies on the board.

(p) No director shall make a contribution to the campaign of a candidate for the general assembly or to a candidate for governor.

4-51-109. Duties of chief executive officer.

(a) The chief executive officer of the corporation shall direct and supervise all administrative and technical activities in accordance with this chapter and with the regulations, policies, and procedures adopted by the board. It shall be the duty of the chief executive officer to:

(1) Facilitate the initiation and supervise and administer the operation of the lottery games;

(2) Employ and direct such personnel as deemed necessary;

(3) Employ by contract and compensate such persons and firms as deemed necessary;

(4) Promote or provide for promotion of the lottery and any functions related to the corporation;

(5) Prepare a budget for the approval of the board;

(6) Require bond from such retailers and vendors in such amounts as required by the board;

(7) Report quarterly to the comptroller of the treasury, the state treasurer, the state and local government committee of the senate, the state government committee of the house of representatives, the office of legislative budget analysis and the board a full and complete statement of lottery revenues and expenses for the preceding quarter;

(8) Report quarterly to the commissioner of finance and administration, the commissioner of education, the chairs of the finance, ways and means committees of the senate and house of representatives, the chair of the education committee of the senate, the chair of the education committee of the house of representatives, and the office of legislative budget analysis, a full and complete statement of the moneys that became unclaimed prize moneys for deposit in the after school programs special account in the preceding quarter; and

(9) Perform other duties generally associated with a chief executive officer of a corporation of an entrepreneurial nature.

(b) The chief executive officer may for good cause suspend, revoke, or refuse to renew any contract entered into in accordance with this chapter or the regulations, policies, and procedures of the board.

(c) The chief executive officer or a designee may conduct hearings and administer oaths to persons for the purpose of assuring the security or integrity of lottery operations or to determine the qualifications of or compliance by vendors and retailers.

(d)(1) No person shall serve as chief executive officer of the corporation who

has been convicted of:

(A) Any felony;

(B) A misdemeanor involving gambling, theft, computer offenses, forgery, perjury, dishonesty or unlawfully selling or providing a product or substance to a minor;

(C) Any violation of this chapter; or

(D) Any offense in a federal court, military court or court of another state, territory or jurisdiction that under the laws of this state would disqualify such person pursuant to subdivisions (d)(1)(A), (d)(1)(B), or (d)(1)(C).

(2) Prior to employment of a person as the chief executive officer, the board shall submit the names of potential chief executive officers to the Tennessee bureau of investigation and the Tennessee bureau of investigation, pursuant to § 38-6-109, shall conduct a criminal history records check on all such persons. The Tennessee bureau of investigation may contract with the federal bureau of investigation, other law enforcement agency or any other legally authorized entity to assist in such investigation. Such persons shall supply a fingerprint sample on request and in the manner requested by the investigating entity. The Tennessee bureau of investigation shall conduct such investigation as soon as practicable after submission of names by the board. The corporation shall pay, as an operating expense, the cost of the records check. The results of such a records check shall not be considered a record open to the public pursuant to title 10, chapter 7, part 5.

(e) No person shall be selected to serve as the initial chief executive officer of the corporation who does not possess:

(1) At least two (2) years of experience as a chief executive officer or chief operating officer of a state lottery within the United States; or

(2) At least five (5) years of management level experience with a state lottery within the United States.

4-51-111. Lottery proceeds.

(a)(1) All lottery proceeds shall be the property of the corporation.

(2) From its lottery proceeds the corporation shall pay the operating expenses of the corporation. As nearly as practical, at least fifty percent (50%) of the amount of money from the actual sale of lottery tickets or shares shall be made available as prize money; provided that this subdivision (a)(2) shall not be deemed to create any lien, entitlement, cause of action, or other private right, and any rights of holders of tickets or shares shall be determined by the corporation in setting the terms of its lottery or lotteries.

(3) As nearly as practical, for each fiscal year, net lottery proceeds shall equal at least thirty-five percent (35%) of the lottery proceeds or an amount that maximizes net lottery proceeds; provided, however, that for the first two (2) full fiscal years and any partial first fiscal year of the corporation, net lottery proceeds need only equal, as nearly as practical, thirty percent (30%) of the lottery proceeds. If, after the second full fiscal year, the corporation determines that an amount that maximizes net lottery proceeds is less than thirty-five percent (35%) of the lottery proceeds, then, immediately upon making such determination, the corporation shall file with the state funding board a statement of reasons supporting such determination and a projection of such amount.

(b)(1) There is created within the state treasury a "lottery for education account." Amounts remaining in the account at the end of each fiscal year shall not revert to the general fund. Money in the account shall be invested by the state treasurer pursuant to title 9, chapter 4, part 6 for the sole benefit of the account. All earnings attributable to such investments shall be credited to the lottery for education account.

(2) On or before the fifteenth day of the first month of each quarter, the corporation shall transfer to the state treasury, for credit to the lottery for education account, an amount representing an estimate of the net lottery proceeds for the immediately preceding quarter. Any additional transfers required to reconcile the amount of the net lottery proceeds transferred on the fifteenth day of the month shall be completed by the last business day of the month following the end of the quarter. Upon deposit into the state treasury, net lottery proceeds shall become the unencumbered property of the state of Tennessee and the corporation shall have no power to agree or undertake otherwise. Except as otherwise provided in subdivision (b)(3), such funds shall be expended for education programs and purposes in accordance with article XI, § 5 of the Constitution of Tennessee.

(3)(A) A general shortfall reserve subaccount shall be maintained within the lottery for education account.

(B) Except as provided in subdivision (b)(3)(D), the amount of the general shortfall reserve subaccount shall equal one hundred million dollars (\$100,000,000). In any fiscal year, only an amount necessary to maintain the general shortfall reserve subaccount in an amount equal to one hundred million dollars (\$100,000,000) shall be deposited into the subaccount.

(C) If the net lottery proceeds deposited into the lottery for education account in any year, exclusive of the amount in the general shortfall reserve subaccount, are not sufficient to meet the amount appropriated for educational programs and purposes pursuant to subsection (c), the general shortfall reserve subaccount may be drawn upon to meet the deficiency; provided, however, that reserves in the account shall be used first for any shortfall in the amount appropriated to the educational scholarship program and then to any other educational programs and purposes otherwise provided by law for which net lottery proceeds may be expended. In the event it becomes necessary to draw from the general shortfall reserve subaccount in any fiscal year for educational programs and purposes, such programs and purposes shall be reviewed and shall be reduced to the amount of available net lottery proceeds, exclusive of the general shortfall reserve subaccount, estimated to be available in the next fiscal year. In the event the general shortfall reserve subaccount is drawn upon in any fiscal year, the subaccount shall be brought back to its prior level in subsequent fiscal years. Five percent (5%) of net lottery proceeds shall be deposited into the lottery for education account each quarter, until the amount of the general shortfall reserve subaccount equals one hundred million dollars (\$100,000,000). Notwithstanding this subdivision (b)(3)(C) to the contrary, the program reduction and repayment provisions of this subdivision (b)(3)(C) shall not be triggered, if amounts in excess of one hundred million dollars (\$100,000,000) are recommended for appropriation pursuant to subdivision (b)(3)(D).

(D) In addition to the amount provided pursuant to subdivision (b)(3)(B), the funding board may recommend appropriation of funds to the

general shortfall reserve subaccount if such fund is deemed inadequate. The funding board may recommend appropriation of funds from the general shortfall reserve subaccount if adequate funds are deemed to be available in the general shortfall reserve subaccount and if such funds are needed for educational programs and purposes consistent with article XI, § 5 of the Constitution of Tennessee; provided, that “adequate funds” shall not be deemed to be available if such recommended appropriation would reduce the general shortfall reserve account below one hundred million dollars (\$100,000,000).

(E) The comptroller of the treasury shall annually review and report to the education committee of the senate and the education committee of the house of representatives concerning the adequacy of the balance of the general shortfall reserve subaccount, whether payment from net lottery proceeds for educational programs authorized in the Constitution of Tennessee has been sufficient to fund the programs without drawing on the general shortfall reserve subaccount and whether triggers for replenishing or increasing the general shortfall reserve subaccount, if deemed inadequate, are sufficient.

(4) A special reserve subaccount shall be maintained within the lottery for education account. The amount of the special reserve subaccount shall be equal to one percent (1%) of net lottery proceeds deposited into the lottery for education account from all deposits made to the fund from the initial deposit until the last deposit made in fiscal year 2007-2008. Transfers to the special reserve subaccount shall be made from the lottery for education account quarterly until the end of such fiscal year. The amount in the special reserve subaccount may be used to make or support loans to local government units for educational programs and purposes in accordance with article XI, § 5 of the Constitution of Tennessee and to pay or secure debt issued for such programs and purposes as otherwise provided by law. Such amount shall supplement, not supplant, nonlottery educational resources for such programs and purposes. Notwithstanding this section to the contrary, treasurer’s earnings on the special reserve subaccount shall be credited to the special reserve subaccount to be used in a manner consistent with this subdivision (b)(4).

(c)(1) No later than the date in 2003 upon which the state funding board presents state revenue estimates to the governor pursuant to § 9-4-5202(e)(3), the funding board shall establish a projected revenue range for net lottery proceeds for the remainder of the current fiscal year and the next succeeding fiscal year. No later than the date of presentation of such estimates to the governor by the state funding board in all subsequent years, the funding board shall project the revenue for net lottery proceeds for the remainder of the then current fiscal year and the next succeeding four (4) fiscal years. Such projection shall be made in the same manner as other state revenues are projected by the funding board, which figure may be adjusted prior to the enactment of the general appropriations act. In making such projections, the funding board shall recognize unusual fluctuations in lottery proceeds. In making such projections, the funding board is authorized to obtain information from those having expertise and experience in projecting revenue from the sale of lottery tickets or shares.

(2)(A)(i) Before December 15, 2003, and before December 15 in each succeeding year, the Tennessee student assistance corporation shall

prepare a report setting forth an estimate of the total cost of lottery related financial assistance to be provided to Tennessee citizens during the next fiscal year pursuant to title 49, chapter 4, part 9. Such report shall include the major assumptions and the methodology used in arriving at such estimate. For the report due in December 2003, the Tennessee student assistance corporation shall base its estimate of total costs on the award values established pursuant to title 49, chapter 4, part 9. For subsequent reports, the Tennessee student assistance corporation shall base its estimate of total costs on the award values in effect at the time the report is prepared. The Tennessee higher education commission, the board of trustees of the University of Tennessee system, the state board of regents, the department of education and the Tennessee independent college and universities association shall provide the Tennessee student assistance corporation with such information as is needed to prepare its report. The Tennessee student assistance corporation shall deliver its report to the governor, the funding board, the speaker of the senate, the speaker of the house of representatives, the chairs of the senate and house of representatives finance, ways and means committees, the chair of the education committee of the senate, the chair of the education committee of the house of representatives, the state and local government committee of the senate, the state government committee of the house of representatives, and the office of legislative budget analysis.

(ii) Before December 15 of each year, the state funding board, with the assistance of the Tennessee student assistance corporation, shall project long-term funding needs of the lottery scholarship and grant programs established under title 49, chapter 4, part 9. The projections shall cover at least the four (4) fiscal years next succeeding the current fiscal year. The analysis shall be performed to determine if adjustments in lottery scholarship and grant programs should be made to prevent funding required in the future for such programs from exceeding estimates of net lottery proceeds made under subdivision (c)(1).

(B) Before December 15, 2003, and before December 15 in each succeeding year, appropriate state agencies shall submit to the funding board and to the governor their recommendations for other educational programs and purposes consistent with article XI, § 5 of the Tennessee Constitution based on the difference between the funding board's projections and recommendations for the lottery scholarship program based on the report submitted pursuant to subdivision (c)(2)(A). In no event shall such recommendations exceed the projections of the funding board for a specific fiscal year.

(3)(A) The governor shall submit to the general assembly in the annual budget document prepared pursuant to title 9, chapter 4, part 51 recommendations concerning the distributions to be made from the lottery for education account based on the projections of the funding board, including recommended appropriations by the funding board from the general shortfall reserve subaccount, if any, and any treasurer's earnings credited to the lottery for education account.

(B) In a separate budget category entitled "net education lottery proceeds," the governor shall estimate the amount of net lottery proceeds and treasurer's earnings thereon to be credited to the lottery for education

account during the fiscal year and the amount of unappropriated surplus estimated to be accrued in the account at the beginning of the fiscal year. The sum of estimated net lottery proceeds, treasurer's earnings thereon, and unappropriated surplus shall be designated "net education lottery proceeds."

(C) In the budget document, the governor shall submit specific recommendations as to the educational programs and purposes for which appropriations should be made from the lottery for education account. Such recommendation shall include the specific value of each category of awards to be offered pursuant to title 49, chapter 4, part 9. The recommendation for each category of award shall be the value of such award as set in the previous general appropriations act unless such value, based on the estimates of the Tennessee student assistance corporation and the funding board, should be adjusted in a manner consistent with title 49, chapter 4, part 9 and this chapter.

(D) The governor's recommendations as to the educational programs and purposes for which appropriations should be made in accordance with this subdivision (c)(3) shall be referred to the education committee of the senate and the education committee of the house of representatives for recommendation and comments prior to final action by the finance, ways and means committees of both houses on the general appropriations act.

(4) The general assembly shall appropriate from the lottery for education account by specific reference to it, or by reference to "net education lottery proceeds." All appropriations to any particular budget unit shall be made together in a separate part entitled, identified, administered, and accounted for separately as a distinct budget unit for net education lottery proceeds. Such appropriations shall otherwise be made in the manner required by law for appropriations.

(5) It is the intent of the general assembly that appropriations from the lottery for education account shall be allocated and expended for educational programs and purposes only in accordance with article XI, § 5 of the Constitution of Tennessee. Such net education lottery proceeds shall be used to supplement, not supplant, existing resources for educational programs and purposes.

(d) Any funds appropriated, but not expended, for educational programs or purposes from the lottery for education account or from the general shortfall reserve subaccount shall not revert to the general fund at the end of the fiscal year but shall be credited, respectively, to the lottery for education account or the general shortfall reserve subaccount and retained there until allocated and appropriated as provided in subdivision (b)(3) and subsection (c).

(e) In compliance with the requirement of this chapter that there shall be a separate accounting of net education lottery proceeds, no deficiency in the lottery for education account shall be replenished by book entries reducing any nonlottery reserve of general funds, including specifically, but without limitation, the reserve for revenue fluctuations or other reserve accounts established by law; nor shall any program or project started specifically from net education lottery proceeds be continued from the general fund; such programs must be adjusted or discontinued according to available net education lottery proceeds unless the general assembly by general law establishes eligibility requirements and appropriates specific other funds within the general appropriations act; nor shall any nonlottery surplus in the general fund be reduced. No

surplus in the lottery for education account shall be reduced to correct any nonlottery deficiencies in sums available for general appropriations, and no surplus in the lottery for education account shall be included in any revenue or surplus calculated for setting aside any additional funds in the reserve for revenue fluctuations as provided in § 9-4-211.

(f)(1) There is created a special account in the state treasury to be known as the “after school programs special account,” hereinafter referred to as the “after school account.” In accordance with § 4-51-123, one hundred percent (100%) of moneys constituting an unclaimed prize shall be deposited in the after school account at the end of each fiscal year.

(2) In any fiscal year in which the financial assistance program for attendance at post-secondary educational institutions located within this state is funded pursuant to title 49, chapter 4, part 9, and excess is available from net lottery proceeds for other educational purposes and projects consistent with article XI, § 5 of the Constitution of Tennessee, then in any such fiscal year moneys in the after school account may be appropriated by the general assembly from such account pursuant to subdivision (f)(3).

(3) Moneys in the after school account shall be used exclusively for after school programs consistent with article XI, § 5 of the Constitution of Tennessee. Such moneys shall supplement, not supplant, nonlottery educational resources for after school educational programs and purposes. The general assembly shall appropriate from the after school programs special account by specific reference to it, or by reference to the “after school account.” Such appropriations shall otherwise be made in the manner required by law for appropriations.

(4) Any reserve balance remaining unexpended at the end of a fiscal year in the after school account shall not revert to the general fund but shall be carried forward into the subsequent fiscal year.

(5) Notwithstanding this section to the contrary, interest accruing on investments and deposits of the after school account shall be credited to such account, shall not revert to the general fund, and shall be carried forward into the subsequent fiscal year.

(6) Moneys in the after school account shall be invested by the state treasurer in accordance with § 9-4-603.

4-51-135. Immunity of corporation — Corporation employees considered state employees — Property and casualty insurance.

(a) The corporation is immune from all tort causes of action. Notwithstanding § 4-51-101(c) or any other law to the contrary, the corporation shall be considered a state agency for purposes of title 9, chapter 8, parts 3 and 4; provided, that the corporation shall not be considered a state agency for purposes of contract and workers’ compensation actions. Actions for workers’ compensation and contract actions, as provided in this chapter, may be brought against the corporation only in the chancery court for Davidson County.

(b) Corporation employees shall be considered state employees for purposes of §§ 8-42-103, 9-8-112 and 9-8-307; provided, that such employees shall not be considered state employees for workers’ compensation coverage, pursuant to § 9-8-307(a)(1)(K).

(c) The corporation shall have the authority to participate in the department of treasury’s property/casualty risk program pursuant to title 12, chapter 4, part 10, for all buildings and building contents owned by the corporation, or

that the corporation is contractually obligated to insure.

(d) The corporation shall pay to the state, as a premium, any contribution required by the risk management fund under this section.

(e) It is the legislative intent that the state shall incur no additional liability as a result of this section.

(f) This section additionally applies to those activities of the corporation relating to sports wagering under the Tennessee Sports Gaming Act, compiled in part 3 of this chapter.

4-51-301. Short title.

This part shall be known and may be cited as the “Tennessee Sports Gaming Act.”

4-51-302. Part definitions.

As used in this part, unless the context otherwise requires:

(1) “Adjusted gross income” means the total of all money paid to a licensee as bets minus the total amount paid out to winning bettors over a specified period of time, which includes the cash equivalent of any merchandise or thing of value awarded as a prize;

(2) “Bettor” means a person who is:

(A) Twenty-one (21) years of age or older;

(B) Physically present in this state when placing a wager with a licensee; and

(C) Not prohibited from placing a wager under § 4-51-312;

(3) “Bond” means a bond held in escrow for the purpose of maintaining adequate reserves to account for losses suffered by a licensee and owed to bettors;

(4) “Cheating” means improving the chances of winning or of altering the outcome by deception, interference, or manipulation of a sporting event or of any equipment, including software pertaining to or used in relation to the equipment, used for or in connection with the sporting event on which wagers are placed or are invited, including attempts and conspiracy to cheat;

(5) “Collegiate” means belonging to, or involving, a public or private institution of higher education;

(6) “Collegiate sporting event” means a sporting or athletics event involving a sports or athletics team of a public or private institution of higher education;

(7) “Council” means the Tennessee education lottery corporation sports wagering advisory council;

(8) “E-sport” means any multiplayer video game played competitively for spectators, either in-person or via remote connection, in which success principally depends upon the superior knowledge, training, experience, and adroitness of the players;

(9) “Fixed-odds betting” means bets made at pre-determined odds or on the spread where the return to the bettor is unaffected by any later change in odds or the spread;

(10) “Future bet” means a wager made on the occurrence of an event in the future relating to a sporting event;

(11) “Interactive sports wagering” means placing a wager on a sporting event via the internet, a mobile device, or other telecommunications

platform;

(12) "License" means a license to accept wagers from bettors on sporting events issued under § 4-51-317;

(13) "Licensee" means a person who holds a license issued under § 4-51-317;

(14) "Live betting" means a type of wager that is placed after the sporting event being wagered on has commenced and whose odds on events occurring are adjusted in real time;

(15) "Minor" means a person who is less than twenty-one (21) years of age;

(16) "Money line" means the fixed odds in relation to a dollar amount that a team or person participating in a sporting event will win outright, regardless of the spread;

(17) "Official league data" means statistics, results, outcomes, and other data related to a sporting event obtained pursuant to an agreement with the relevant governing body of a sport or sports league, organization, or association whose corporate headquarters are based in the United States, or an entity expressly authorized by such governing body to provide such information to licensees for purposes of live betting;

(18) "Online sports wagering platform" means the combination of hardware, software, and data networks used to manage, administer, or control sports wagering and any associated wagers accessible by any electronic means, including mobile applications and Internet websites accessed via a mobile device or computer;

(19) "Pari-mutuel betting" means a type of bet in which all wagers on a particular occurrence are pooled and winnings are paid in accordance with the size of the pool and the number of winners;

(20) "Parlay bet" means a single wager that incorporates two (2) or more individual bets for purposes of earning a higher payout if each bet incorporated within the wager wins;

(21) "Professional sports team" means a major or minor league professional baseball, football, basketball, soccer, or hockey franchise, or a professional motor sport;

(22) "Proposition bet" means a wager made regarding the occurrence or non-occurrence during a sporting event of an event that does not directly affect the final outcome of the sporting event;

(23) "Sporting event" means any professional sporting or athletic event, including motorsports and e-sports, any collegiate sporting or athletic event, or any Olympic sporting or athletic event sanctioned by a national or international organization or association. "Sporting event" does not include horse racing;

(24) "Sports governing body" means the organization, league, or association that oversees a sport and prescribes final rules and enforces codes of conduct with respect to such sport and participants therein;

(25) "Spread" means the predicted scoring differential between two (2) persons or teams engaged in a sporting event;

(26) "Supervisory employee" means a principal or employee having the authority to act on behalf of a licensee or whose judgment is being relied upon to manage and advance the business operations of a licensee;

(27) "Vendor" means a contractor, subcontractor, or independent contractor hired, or contracted with, by the corporation or a licensee for the purpose of facilitating the business of the corporation or licensee under this part. "Vendor" does not include a lottery system vendor as that term is used under

part 1 of this chapter; and

(28) “Wager” or “bet” means a sum of money that is risked by a bettor on the unknown outcome of one (1) or more sporting events, including, but not limited to, the form of fixed-odds betting, a future bet, live betting, a money line bet, pari-mutuel betting, parlay bet, pools, proposition bet, spread bet, or in any other form or manner as authorized by rule of the board.

4-51-303. Restrictions on and regulation of licenses.

A person issued a license to offer interactive sports wagering under this part is subject to all provisions of this part relating to licensure, regulation, and civil and criminal penalties.

4-51-304. Taxes — Collection — Disposition of taxes.

(a) It is a taxable privilege to offer sports wagering in this state under a license issued in accordance with this part. Notwithstanding any state law to the contrary, a licensee shall only pay a privilege tax on its adjusted gross income in accordance with this section.

(b) There is imposed upon the adjusted gross income of a licensee a privilege tax of twenty percent (20%).

(c) The tax imposed under this section must be paid monthly by a licensee based on its monthly adjusted gross income for the immediately preceding calendar month. The tax must be paid to the corporation in accordance with rules promulgated by the corporation.

(d) For the purpose of enforcing this part and ascertaining the amount of tax due under this section, the corporation may competitively procure the services of a vendor to provide a central accounting and reporting system, to ascertain all bets wagered minus the total amount paid out to winning bettors daily, and such other information as the corporation may require. All licensees shall utilize such central accounting and reporting system.

(e)(1) Eighty percent (80%) of the privilege tax collected under this section must be distributed by the corporation to the state treasurer for deposit into the lottery for education account created under § 4-51-111. Funds deposited under this subdivision (e)(1) must be accounted for separately by the corporation from funds collected by the corporation for the lottery. Section 4-51-111 is otherwise inapplicable to taxes collected and deposited under this subdivision (e)(1).

(2) Notwithstanding § 4-51-111, fifteen percent (15%) of the privilege tax collected under this section must be distributed by the corporation quarterly to the state treasurer for deposit into the general fund, to be remitted quarterly to each local government in this state on a per capita basis, as determined by population based on the last federal census. For purposes of calculating the allocation, the population of counties excludes the population of each municipality within the boundaries of the county. Funds remitted to a local government under this subdivision (e)(2) must be allocated to the county or city general fund, as applicable, to be used for local infrastructure projects, including, without limitation, transportation and road projects and public buildings.

(3) Notwithstanding § 4-51-111, five percent (5%) of the privilege tax collected under this section must be distributed by the corporation to the state treasurer and allocated to the department of mental health and substance abuse services to use in the manner prescribed by § 4-51-319.

**4-51-305. Lottery corporation sports wagering advisory council —
Creation — Membership — Terms.**

(a) There is created a lottery corporation sports wagering advisory council to assist the corporation with sports wagering activities.

(b) The council is composed of nine (9) members appointed as follows:

(1) Three (3) by the governor, with one (1) member from each grand division of this state;

(2) Three (3) by the speaker of the senate, with one (1) member from each grand division of this state; and

(3) Three (3) by the speaker of the house of representatives, with one (1) member from each grand division of this state.

(c) Prior to the appointment of a person to the council, the appointing authority shall submit the name of the potential member to the Tennessee bureau of investigation. The bureau shall conduct a criminal records check on all such persons pursuant to § 38-6-109. The bureau may contract with any other law enforcement agency to assist in such investigation. Such potential member shall supply a set of fingerprints upon request and in the manner requested by the investigating entity.

(d) The term of each member begins on July 1. For purposes of staggering the terms of the council, each appointing authority shall appoint one (1) member to a term of four (4) years, one (1) member to a term of three (3) years, and one (1) member to a term of (2) years.

(e) After the initial terms, the term of an appointed or reappointed member is four (4) years. However, the term of a reappointed member or a new appointee replacing an existing member begins on the day of the expiration of the prior term.

(f) Notwithstanding subsection (e), at the end of the member's term, the member shall continue to serve until a replacement is appointed by the appropriate appointing authority.

(g)(1) Each member of the council must:

(A) Be a citizen of the United States;

(B) Be, and remain, a resident of this state; and

(C) Possess and demonstrate honesty, integrity, and good character.

(2) A person is not eligible for appointment to the council if the person:

(A) Holds any elective office in state government;

(B) Is an officer or official of any political party;

(C) Has a direct pecuniary interest in the sports wagering or gaming industry;

(D) Has been convicted of a felony;

(E) Has been convicted of a misdemeanor involving gambling, theft, computer-related offenses, forgery, perjury, dishonesty, or unlawfully selling or providing a product or substance to a minor;

(F) Has been convicted of any violation under this chapter; or

(G) Has been convicted of any offense in a federal court, military court, or court of another state, territory, or jurisdiction that under the laws of this state would disqualify such person pursuant to subdivisions (g)(2)(D)–(F).

(h) In making appointments to the council, the appointing authorities shall strive to ensure that the council membership is diverse in educational background, ethnicity, race, gender, and geographic residency and has experi-

ence in:

- (1) The sports industry;
- (2) Accounting; and
- (3) Law enforcement.

(i) A vacancy on the council must be filled for the balance of the unexpired term in the same manner as the original appointment.

(j) Five (5) members of the council constitute a quorum for the purposes of voting and conducting the business of the council.

(k) The council shall elect a chair from among its membership. The chair shall serve in that capacity for one (1) year and is eligible for reelection. The chair shall preside at all meetings and shall have all the powers and privileges of other members.

(l) The council shall meet not less than quarterly, and may hold additional regular and special meetings at the call of the board.

(m) The members must be reimbursed for per diem and travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(n) The council shall:

- (1) Advise the board of best practices with respect to sports wagering;
- (2) Provide administrative and technical assistance to the corporation with respect to sports wagering; and
- (3) Carry out any other duties of the council as prescribed by the board or this part.

4-51-306. Powers and duties of corporation and board — Adoption of rules.

(a) The corporation and board shall enforce this part and supervise compliance with laws and rules relating to the regulation and control of wagering on sporting events in this state.

(b) The board shall promulgate rules in accordance with this part. Rules of the board promulgated under this part must be adopted, amended, or repealed in the same manner as the board adopts, amends, and repeals bylaws and regulations of the board for purposes of regulating the corporation's affairs and the conduct of corporate business.

4-51-307. Removal of member.

A member of the council may be removed from the council by the appointing authority if, in the opinion of the appointing authority, the member has committed misfeasance or malfeasance in office or neglect of duty.

4-51-308. Reports of board.

(a) The board shall prepare and submit an annual report to the governor, the speaker of the senate, and the speaker of the house of representatives containing the following information:

- (1) The number of active licensees;
 - (2) The aggregate gross and net revenue of all licensees; and
 - (3) The financial impact on this state and local governments as the result of the sports wagering industry in this state.
- (b) The report prepared under subsection (a) must be submitted not later

than September 30 of each year. A report submitted under subsection (a) may be submitted electronically.

4-51-309. Requirements for escrow account, insurance, and cash-on-hand.

(a) The board shall prescribe by rule:

(1) The amount of a bond in escrow and the amount of cash that must be kept on hand to ensure that there exists adequate reserves to pay off bettors; and

(2) Any insurance requirements for a licensee.

(b) The licensee may maintain the bond at any bank lawfully operating in this state, and the licensee must be the beneficiary of any interest accrued thereon.

4-51-310. Financial practices, audits of licensees, and post-employment restrictions.

The board shall prescribe by rule:

(1) Minimum requirements by which each licensee must exercise effective control over its internal fiscal affairs, including, without limitation, requirements for:

(A) Safeguarding assets and revenues, including evidence of indebtedness;

(B) Maintenance of reliable records relating to accounts, transactions, profits and losses, operations, and events; and

(C) Global risk management;

(2) Requirements for internal and independent audits of licensees;

(3) The manner in which periodic financial reports must be submitted to the board from each licensee, including the financial information to be included in the reports;

(4) The type of information deemed to be confidential financial or proprietary information that is not subject to any reporting requirements under this part;

(5) Policies, procedures, and processes designed to mitigate the risk of cheating and money laundering; and

(6) Any post-employment restrictions necessary to maintain the integrity of sports wagering in this state.

4-51-311. Persons authorized to engage in sports wagering.

(a) Except for those persons ineligible to place bets under § 4-51-312, a person who is twenty-one (21) years of age or older and who is physically located in this state may place a wager in the manner authorized by law.

(b) A licensee shall ensure that all wagers accepted in this state are from qualified bettors and in accordance with this part.

4-51-312. Persons ineligible to place a bet or wager.

(a) The following persons or categories of persons shall not, directly or indirectly, wager or bet on a sporting event in this state:

(1) Any member, officer, or employee of the council, board, or corporation;

(2) With respect to a licensee, any principal owner, partner, member of the

board of directors, officer, or supervisory employee;

(3) With respect to a vendor of a licensee, any principal owner, partner, member of the board of directors, officer, or supervisory employee;

(4) Any contractor, subcontractor, or consultant, or officer or employee of a contractor, subcontractor, or consultant, of a licensee, if the person is directly involved in the licensee's operation of sports wagering or the processing of sports wagering claims or payments through the licensee's online sports wagering platform;

(5) Any person subject to a contract with the board if the contract contains a provision prohibiting the person from participating in sports wagering;

(6) Any person with access to information that is known exclusively to a person who is prohibited from placing a wager in this state under this section;

(7) Any amateur or Olympic athlete if the wager is based on the sport or athletic event in which the athlete participates and that is overseen by the athlete's sports governing body;

(8) Any professional athlete if the wager is based on any sport or athletic event overseen by the athlete's sports governing body;

(9) Any owner or employee of a team, player, umpire or sports union personnel, or employee, referee, coach, or official of a sports governing body, if the wager is based on a sporting event overseen by the person's sports governing body;

(10) Any trustee or regent of a governing board of a public or private institution of higher education;

(11) Any member of an advisory board established under title 49, chapter 9, part 5;

(12) Any person prohibited by the rules of a governing body of a collegiate sports team, league, or association from participating in sports wagering activities;

(13) With respect to a student or an employee of a public or private institution of higher education, any person who has access to material non-public information concerning a student athlete or team, and the information is relevant to the outcome of a sporting event; provided, that the person is only prohibited from using the information to place a wager on a collegiate sporting event; and

(14) Any person having the ability to directly affect the outcome of a sporting event.

(b) The board may prescribe by rule additional categories of persons who are prohibited from placing a wager in this state.

(c) The corporation shall maintain a confidential registry of persons and categories of persons who are ineligible to place a wager in this state and shall provide the registry to each licensee in this state. The corporation shall provide each updated registry to the licensees as soon as practicable. Each licensee shall maintain the registry provided by the corporation confidentially.

(d) A violation of subsection (a) is:

(1) For a first offense, a Class C misdemeanor;

(2) For a second offense, a Class B misdemeanor; and

(3) For a third or subsequent offense, a Class A misdemeanor.

(e) As used in this section, "material non-public information" has the same meaning as defined in § 4-51-330(d).

4-51-313. Wagers as contracts.

Notwithstanding § 29-19-101, each wager placed in accordance with this part is deemed to be an enforceable contract.

4-51-314. Wagers prohibited.

(a)(1) The board shall, by rule, prohibit wagering on:

(A) Injuries, penalties, and other types or forms of wagering under this part that are contrary to public policy, unfair to consumers, or deemed to violate Article XI, Section 5 of the Constitution of Tennessee; and

(B) Individual actions, events, statistics, occurrences, or non-occurrences to be determined during a collegiate sporting event, including, without limitation, in-game proposition bets on the performance or non-performance of a team or individual participant during a collegiate sporting event.

(2) A licensee may only offer parlay and proposition bets of the type or category as prescribed by rule of the board. The board shall prescribe by rule the types and categories of parlay and proposition bets that may be offered in this state, if any.

(b)(1) A licensee, professional sports team, league, or association, or institution of higher education may submit to the board in writing a request to prohibit a type or form of wagering, or to prohibit a category of persons from wagering, if the licensee, team, league, association, or institution believes that such wagering by type, form, or category is contrary to public policy, unfair to consumers, or affects the integrity of a particular sport or the sports betting industry.

(2) The board shall, upon a demonstration of good cause from the requestor, grant the request. The board shall respond to a request pursuant to this subsection (b) concerning a particular event before the start of the event, or if it is not feasible to respond before the start of the event, as soon as practicable.

4-51-315. Integrity of sports wagering — Public interest.

(a) The board, council, licensees, and vendors shall cooperate with investigations conducted by sports governing bodies and law enforcement agencies, including, but not limited to, providing or facilitating the provision of account-level betting information and data files relating to persons placing wagers.

(b) Licensees shall immediately report to the board any information relating to:

(1) Criminal or disciplinary proceedings commenced against the licensee in connection with its operations;

(2) Abnormal betting activity or patterns that may indicate a concern with the integrity of a sporting event;

(3) Any potential breach of a sports governing body's internal rules and codes of conduct pertaining to sports wagering;

(4) Conduct that corrupts the betting outcome of a sporting event for purposes of financial gain, including match fixing; and

(5) Suspicious or illegal wagering activities, including cheating, the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, using agents to place wagers, and using false

identification.

(c) Licensees shall also immediately report information relating to conduct described in subdivisions (b)(2)–(4) to the relevant sports governing body.

(d) Licensees shall share with the board, in real time and at the account level, information regarding a bettor, amount and type of bet, the time the bet was placed, the location of the bet, including the internet protocol address if applicable, the outcome of the bet, and records of abnormal betting activity. Information shared under this subsection (d) must be submitted in the form and manner as required by rule of the board.

(e) If a sports governing body has notified the board that real-time information sharing for wagers placed on its sporting events is necessary and desirable, licensees shall share the same information with the sports governing body or its designee with respect to wagers on its sporting events. Such information may be provided in anonymized form and may be used by a sports governing body solely for integrity purposes.

(f) In addition to its specific rulemaking authority under this part, the board may promulgate rules it deems necessary to maintain the integrity of sports wagering in this state and to protect the public interest.

4-51-316. Official league data.

A licensee shall exclusively use official league data for purposes of live betting unless the licensee can demonstrate to the board that the governing body of a sport or sports league, organization, or association or other authorized entity cannot provide a feed of official league data for live betting in accordance with commercially reasonable terms, as determined by the board.

4-51-317. Applying for licenses — Fees.

(a) An applicant for a license shall submit an application on a form, in such manner, and in accordance with such requirements as may be prescribed by rule of the board.

(b) An application for a license must include the following:

(1) The identification of the applicant's principal owners who own five percent (5%) or more of the company, partners, members of its board of directors, and officers;

(2) A national criminal background check for each person identified under subdivision (b)(1) conducted by the Tennessee bureau of investigation or another appropriate law enforcement agency. A set of fingerprints must be supplied upon request and in the manner requested by the investigating agency;

(3) Information, documentation, and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty, and integrity. Such information may include, without limitation, information pertaining to family, habits, character, reputation, criminal and arrest records, business activities, financial affairs, and business, professional, and personal associates, covering at least the ten-year period immediately preceding the filing of the application;

(4) Notice and a description of civil judgments obtained against the applicant pertaining to antitrust or security regulation laws of the federal government, of this state or of any other state, jurisdiction, province, or country;

(5) Letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business. The letters of reference must indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, must specify what the information is;

(6) If the applicant has conducted gaming operations in a jurisdiction which permits such activity, letters of reference from the regulatory body that regulates sports wagering that specify the standing of the applicant with the regulatory body; provided, however, that if no such letters are received within sixty (60) days of the request therefor, the applicant may submit a statement under oath that the applicant is or was, during the period such activities were conducted, in good standing with the governing body;

(7) Information, documentation, and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability, integrity, and responsibility of the applicant, including, but not limited to, bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. Each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the board. The board may consider any relevant evidence of financial stability. The applicant is presumed to be financially stable if the applicant establishes by clear and convincing evidence that it meets each of the following standards:

(A) The ability to assure the financial integrity of sports wagering operations by the maintenance of a bankroll or equivalent provisions adequate to pay winning wagers to bettors when due. An applicant is presumed to have met this standard if the applicant maintains, on a daily basis, a bankroll and equivalent provisions, in an amount which is at least equal to the average daily minimum bankroll or equivalent provisions, calculated on a monthly basis, for the corresponding month in the previous year;

(B) The ability to meet ongoing operating expenses which are essential to the maintenance of continuous and stable sports wagering operations; and

(C) The ability to pay, as and when due, all state and federal taxes;

(8) Information, documentation, and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and gaming experience as to establish the likelihood of the creation and maintenance of a successful, efficient sports wagering operation;

(9) Information, as required by rule of the board, regarding the financial standing of the applicant, including, without limitation, each person or entity that has provided loans or financing to the applicant;

(10) A nonrefundable application fee in the amount of fifty thousand dollars (\$50,000), and an annual licensing fee in the amount of seven hundred fifty thousand dollars (\$750,000); and

(11) Any additional information required by the board by rule.

(c) Upon review of the application, the board shall approve or deny an application for a license not more than ninety (90) days after receipt of an

application.

(d) A license issued by the board authorizes the licensee to offer interactive sports wagering in this state.

(e) A licensee may renew its license by submitting an application on a form, in such manner, and in accordance with such requirements as may be prescribed by rule of the board. A licensee shall submit the nonrefundable annual license and application fees prescribed under subdivision (b)(10) with its application for the renewal of its license.

(f) For each application for licensure or renewal of a license that is approved under this section, the amount of the application fee must be credited toward the licensee's annual license fee and the licensee shall remit the balance of the annual fee to the corporation upon approval of a license. The fees collected from licensees under this section must be used by the corporation to pay the actual operating and administrative expenses incurred under this part.

(g) Except as provided in subsection (f), licensing and application fees collected by the board must be distributed to the state treasurer for deposit into the Tennessee Promise scholarship endowment fund created under § 49-4-708(d).

(h) Each person holding a license under this part has a continuing duty to immediately inform the board of any change in status relating to any information that may disqualify the person from holding the license.

4-51-318. Restrictions on licensees.

(a) A licensee shall not:

(1) Allow a minor to place a wager;

(2) Offer, accept, or extend credit to a bettor;

(3) Directly advertise or promote sports wagering to minors. The board shall adopt rules specific to the manner in which a licensee may advertise its business operations as authorized by this part;

(4) Offer or accept a wager on any event, outcome, or occurrence other than a sporting event, including, without limitation, a high school sporting event offered, sponsored, or played in connection with a public or private institution that offers education at the secondary level; or

(5) Accept a wager from a person who is on the registry created and maintained by the corporation under § 4-51-312(c).

(b) A violation of this section is:

(1) For a first offense, a Class B misdemeanor; and

(2) For a second or subsequent offense, a Class A misdemeanor.

4-51-319. Responsible sports wagering.

(a) Licensees shall allow bettors to restrict themselves from placing wagers with the licensee, including limits on the time spent betting and amounts wagered, and take reasonable steps to prevent those bettors from placing such wagers. At the request of a bettor, a licensee may share the request with the board for the sole purpose of disseminating the request to other licensees.

(b) The board shall promulgate rules that require a licensee to implement responsible sports wagering programs that include comprehensive training on responding to circumstances in which individuals present signs of a gambling addiction.

(c)(1) The department of mental health and substance abuse services shall use the funds distributed to the department under § 4-51-304(e)(3) to

oversee one (1) or more grant programs with organizations to provide treatment services for individuals with problem gambling or a gambling disorder, and to establish prevention initiatives to reduce the number of individuals with problem gambling or a gambling disorder. The department may also use the funds distributed to the department to cover its actual administrative costs and the costs of professional services associated with overseeing each grant program.

(2) The department shall annually generate a report outlining the activities of the department with respect to funding received under this part for problem gambling and gambling disorders, including, but not limited to, descriptions of programs, therapies, grants, and other resources made available, the success and outcomes of utilizing such programs, therapies, grant programs, and resources, the number of persons treated, the number of persons who complete programs and therapies, and the rate of recidivism, if known. The department shall file the annual report with the governor, the speaker of the senate, and the speaker of the house of representatives, and shall publish the report on its website, no later than January 1 of each year. The annual report must include an itemization of the department's expenditures relating to administrative costs and professional services associated with its activities under this subsection (c).

4-51-320. Persons prohibited from obtaining licenses.

The following persons shall not apply for or obtain a license:

- (1) A member or employee of the council, board, or corporation;
- (2) An employee of any professional sports team;
- (3) A coach of, or player for, a collegiate, professional, or Olympic sports team or sport;
- (4) A person who is a member or employee of any governing body of a sports team, league, or association;
- (5) A person who has been convicted of a crime as specified in rules promulgated by the board;
- (6) A person having the ability to directly affect the outcome of a sporting event; and
- (7) Any other category of persons, established by rule of the board, that if licensed, would affect the integrity of sports wagering in this state.

4-51-321. Transfer of licenses.

The board may adopt rules prescribing the manner in which a license may be transferred and a fee for the transfer of the license.

4-51-322. House rules — Acceptance of wagers — Payouts.

(a) Each licensee shall adopt and adhere to a written, comprehensive policy outlining the house rules governing the acceptance of wagers and payouts. The policy and rules must be approved by the board prior to the acceptance of a wager by a licensee. The policy and rules must be readily available to a bettor on the licensee's website.

(b) The board shall promulgate rules regarding:

- (1) The manner in which a licensee accepts wagers from and issues payouts to bettors, including payouts in excess of ten thousand dollars

- (\$10,000); and
- (2) Reporting requirements for suspicious wagers.

4-51-323. Inspections.

Members of the board or designated employees or agents of the corporation may, during normal business hours, enter the premises of any facility of a licensee or third party utilized by the licensee to operate and conduct business in accordance with this part for the purpose of inspecting books and records kept as required by this part, to ensure that the licensee is in compliance with this part, or to make any other inspection of the premises necessary to protect the interests of this state and its consumers.

4-51-324. Licensee reporting requirements — Compliance hearing.

(a) Each licensee shall report to the board, no later than January 15 of each year:

- (1) The total amount of wagers received from bettors for the immediately preceding calendar year;
- (2) The adjusted gross income of the licensee for the immediately preceding calendar year; and
- (3) Any additional information required by rule of the board deemed in the public interest or necessary to maintain the integrity of sports wagering in this state.

(b) A licensee shall immediately report to the board any information relating to:

- (1) The name of any newly elected officer or director of the board of the licensed entity; and
- (2) The acquisition by any person of five percent (5%) or more of any class of corporate stock.

(c) With respect to information reported under subsection (b), a licensee shall include with the report a statement as to any conflict of interest that may exist as the result of such election or acquisition.

(d) Upon receiving a report under this section or § 4-51-315(b), the board may conduct a hearing in accordance with § 4-51-326 to determine whether the licensee remains in compliance with this part.

4-51-325. Interactive sports wagering.

(a) Prior to placing a wager with a licensee via interactive sports wagering, a bettor shall register with the licensee remotely and attest that the bettor meets the requirements to place a wager with a licensee in this state. Prior to verification of a bettor's identity in accordance with this section, a licensee shall not allow the bettor to engage in sports wagering, make a deposit, or process a withdrawal via interactive sports wagering. A licensee shall implement commercially and technologically reasonable procedures to prevent access to sports wagering by minors on its interactive platforms. A licensee may use information obtained from third parties to verify that a person is authorized to open an account, place wagers, and make deposits and withdrawals.

(b) A licensee shall adopt a registration policy to ensure that all bettors utilizing interactive sports wagering are authorized to place a wager with a licensee within this state. The policy must include, without limitation, a

mechanism by which to:

- (1) Verify the name and age of the registrant;
- (2) Verify that the registrant is not prohibited from placing a wager under § 4-51-312; and
- (3) Obtain the following information:
 - (A) A physical address other than a post office box;
 - (B) A phone number;
 - (C) A unique user name; and
 - (D) An active email account.
- (c) A licensee may require a bettor to provide the licensee with a signed and notarized document attesting that the bettor is qualified to engage in sports wagering under this part as part of the registration policy of the licensee.
- (d) A bettor shall not register more than one (1) account with a licensee, and a licensee shall use all commercially and technologically reasonable means to ensure that each bettor is limited to one (1) account.
- (e) A licensee, in addition to complying with state and federal law pertaining to the protection of the private, personal information of registered bettors, shall use all other commercially and technologically reasonable means to protect such information consistent with industry standards.
- (f) Once a bettor account is created, a bettor may only fund the account through:
 - (1) Electronic bank transfer of funds, including such transfers through third parties;
 - (2) Debit cards;
 - (3) Online and mobile payment systems that support online money transfers; and
 - (4) Any other method approved by the rule of the board that is initiated with cash.
- (g)(1) Each financial transaction with respect to an account between a bettor and licensee must be confirmed by email, telephone, text message, or other means agreed upon by the account holder. A licensee shall use all commercially and technologically reasonable means to independently verify the identity of the bettor making a deposit or withdrawal.
- (2) If a licensee determines that the information provided by a bettor to make a deposit or process a withdrawal is inaccurate or incapable of verification, or violates the policies and procedures of the licensee, the licensee shall, within ten (10) days, require the submission of additional information that can be used to verify the identity of the bettor.
- (3) If such information is not provided or does not result in verification of the bettor's identity, the licensee shall:
 - (A) Immediately suspend the bettor's account and not allow the bettor to place wagers;
 - (B) Retain any winnings attributable to the bettor;
 - (C) Refund the balance of deposits made to the account to the source of such deposit or by issuance of a check; and
 - (D) Deactivate the account.
- (h) A licensee shall utilize geo-location or geo-fencing technology to ensure that interactive sports wagering is only available to bettors who are physically located in this state. A licensee shall maintain in this state its servers used to transmit information for purposes of accepting or paying out bets or wagers on

a sporting event placed by bettors located in this state.

(i) A licensee shall clearly and conspicuously display on the website page a statement indicating that it is illegal for a person under twenty-one (21) years of age to engage in sports wagering in this state.

(j) The board shall promulgate rules for purposes of regulating sports wagering via interactive sports wagering.

4-51-326. Violations of part — Hearings — Administrative fines.

(a) The board may investigate and conduct a hearing with respect to a licensee upon information and belief that the licensee has violated this part, or upon the receipt of a credible complaint from any person that a licensee has violated this part. The board shall conduct investigations and hearings in accordance with rules adopted by the board.

(b) If the board determines that a licensee has violated any provision of this part or rule of the board, the board may:

(1) Suspend, revoke, or refuse to renew a license; and

(2) For any violation by a licensee, impose an administrative fine not to exceed twenty-five thousand dollars (\$25,000) per violation.

(c) Except as provided in § 4-51-327, the board shall promulgate rules establishing a schedule of administrative fines that may be assessed in accordance with subsection (b) for each violation of this part.

(d) Fines assessed under this section must be accounted for separately for use by the board in a manner consistent with rules of the board.

(e) The board may issue subpoenas to compel the attendance of witnesses and the production of relevant books, accounts, records, and documents for purposes of carrying out its duties under this part.

4-51-327. Investigations by board.

(a) The board, utilizing security personnel of the corporation, shall conduct investigations to determine whether:

(1) A licensee is accepting wagers from minors or other persons ineligible to place wagers in this state; and

(2) A person is unlawfully accepting wagers from another person without a license or at a location in violation of this part.

(b) After a hearing under § 4-51-326, if the board finds that:

(1) A licensee is accepting wagers from minors or other persons ineligible to place wagers in this state, the board shall impose a fine against the licensee in the following amount:

(A) For a first offense, one thousand dollars (\$1,000);

(B) For a second offense, two thousand dollars (\$2,000); and

(C) For a third or subsequent offense, five thousand dollars (\$5,000);

and

(2) A person is unlawfully accepting wagers from another person without a license, the board shall impose a fine against the person in the following amount:

(A) For a first offense, ten thousand dollars (\$10,000);

(B) For a second offense, fifteen thousand dollars (\$15,000); and

(C) For a third or subsequent offense, twenty-five thousand dollars (\$25,000).

(c) This section does not prohibit the board from suspending, revoking, or refusing to renew the license of a licensee in accordance with § 4-51-326.

4-51-328. Appealing final actions of the board.

(a) A licensee or other person aggrieved by a final action of the board may appeal that decision to the chancery court of Davidson County.

(b) The chancery court of Davidson County shall hear appeals from decisions of the board and, based upon the record of the proceedings before the board, may reverse the decision of the board only if the appellant proves the decision to be:

- (1) Clearly erroneous;
- (2) Arbitrary and capricious;
- (3) Procured by fraud;
- (4) A result of substantial misconduct by the board; or
- (5) Contrary to the United States Constitution, the Constitution of Tennessee, or this part.

(c) The chancery court may remand an appeal to the board to conduct further hearings.

4-51-329. Civil penalties.

(a) A licensee or other person who violates this part is liable for a civil penalty of not more than five thousand dollars (\$5,000) per violation, not to exceed fifty thousand dollars (\$50,000) for violations arising out of the same transaction or occurrence, which must accrue to the corporation and may be recovered in a civil action brought by the office of the attorney general and reporter or its designee in the name of the corporation.

(b) The office of the attorney general may seek and obtain an injunction in a court of competent jurisdiction for purposes of enforcing this part.

(c) Costs must not be taxed against the office of the attorney general and reporter or this state for actions brought under this section.

4-51-330. Transmission of sports information for purposes of sports wagering.

(a) It is unlawful for any person or entity, directly or indirectly, to knowingly receive, supply, broadcast, display, or otherwise transmit material non-public information for the purpose of wagering on a sporting event or influencing another person's or entity's wager on a sporting event.

(b) This section does not apply to the dissemination of public information as news, entertainment, or advertising.

(c) A violation of this section is a Class A misdemeanor.

(d) As used in this section, "material non-public information" means information that has not been disseminated publicly concerning an athlete, contestant, prospective contestant, or athletic team, including, without limitation, confidential information related to medical conditions or treatment, physical or mental health or conditioning, physical therapy or recovery, discipline, sanctions, academic status, education records, eligibility, playbooks, signals, schemes, techniques, game plans, practices, strategies, assessments, systems, drills, or recordings of practices or other athletic activities.

4-57-104. State fair and exposition commission.

(a) Notwithstanding any other law to the contrary establishing a state fair board, there is hereby created a state fair and exposition commission which

shall be composed of the following members to be appointed by the governor:

- (1) The dean of the University of Tennessee extension;
- (2) The president of the Tennessee Farm Bureau;
- (3) The state advisor of the Future Farmers of America;
- (4) The executive director of the Tennessee Association of Fairs;
- (5) The chair of the Tennessee State Fair Association;
- (6) The commissioner of agriculture; and
- (7) The dean of the Tennessee State University, college of agriculture cooperative extension program.

(b) Within sixty (60) days of creation of the commission, the commission members shall establish by rule a method of selecting a chair for the commission and shall select a chair. The chair shall serve a two-year term but shall be limited to no more than two (2) consecutive terms. Commission members shall serve on the commission as long as the member holds the position the member held at the time of initial appointment.

5-1-132. Prohibited regulation of business of person under 18 years of age.

(a) As used in this section:

(1) "Business" means any enterprise carried on for the purpose of gain or economic profit; and

(2) "Gross receipts":

(A) Means all receipts from whatever sources derived before any deductions; and

(B) Does not include tips, gratuities, or other amounts customarily assumed to be intended for the person who has served the customer or client.

(b) Notwithstanding any law to the contrary, a county shall not require a license, permit, or any other form of regulation for a business that:

(1) Is operated solely by a person or persons under eighteen (18) years of age;

(2) Is located on private property with the permission of the property owner; and

(3) Generates gross receipts of three thousand dollars (\$3,000) or less in a calendar year.

5-1-202. Charter adoption — Effect on existing offices, etc. — Effect on constitutional officers.

(a) After adoption of a charter pursuant to this part, no right, power, duty, obligation or function of any officer, agency or office of such county shall be retained and continued unless this part or the charter of such county expressly so provides, or unless such retention and continuation be required by the Constitution of Tennessee.

(b) The adoption of a charter shall not have the effect of removing the incumbent from any county office or abridging the term or altering the salary prior to the end of the term for which such public officer was elected.

(c) No charter, whether existing or adopted after May 22, 2019, may be interpreted or amended to alter, amend, or reduce the duties, qualifications, or privileges of the constitutional county offices of sheriff, register, county clerk, assessor of property, or trustee in a manner inconsistent with the laws of this

state; provided, that a charter may increase the duties of such offices in a manner consistent with the laws of this state. This subsection (c) must not be construed to affect the terms of the constitutional county offices of sheriff, register, county clerk, assessor of property, or trustee.

6-4-402. Depositories of municipal funds.

(a)(1) The board, at a regular meeting, shall adopt a resolution to contract with a bank or banks making the best proposal to become the depository of municipal funds.

(2) Before entering into a contract under subdivision (a)(1), the treasurer or an officer appointed by the treasurer shall review and analyze the proposals from the banks and submit an analysis of the proposals to each member of the board at or before the next meeting of the board. The analysis of the proposals should consider the bank or banks proposing the highest interest rate, potential service charges or other fees, factors affecting safety and liquidity of municipal funds, and any other relevant factors.

(b) The board shall require any bank that becomes a depository of municipal funds to secure the funds by collateral in the same manner and under the same conditions as state deposits under title 9, chapter 4, parts 1 and 4, or as provided in a collateral pool created under title 9, chapter 4, part 5.

(c) Notwithstanding any law to the contrary, at least once every four (4) years, the board shall reevaluate the contracts entered into pursuant to subsection (a). The board shall base its evaluation on proposals obtained from at least two (2) banks. The treasurer or an officer appointed by the treasurer shall prepare a written evaluation of the proposals and preserve the evaluations for at least three (3) years.

6-22-120. Depositories of municipal funds.

(a)(1) The board, at a regular meeting, shall adopt a resolution to contract with a bank or banks making the best proposal to become the depository of municipal funds.

(2) Before entering into a contract under subdivision (a)(1), the treasurer or an officer appointed by the treasurer shall review and analyze the proposals from the banks and submit an analysis of the proposals to each member of the board at or before the next meeting of the board. The analysis of the proposals should consider the bank or banks proposing the highest interest rate, potential service charges or other fees, factors affecting safety and liquidity of municipal funds, and any other relevant factors.

(b) The board shall require any bank that becomes a depository of municipal funds to secure the funds by collateral in the same manner and under the same conditions as state deposits under title 9, chapter 4, parts 1 and 4, or as provided in a collateral pool created under title 9, chapter 4, part 5.

(c) Notwithstanding any law to the contrary, at least once every four (4) years, the board shall reevaluate the contracts entered into pursuant to subsection (a). The board shall base its evaluation on proposals obtained from at least two (2) banks. The treasurer or an officer appointed by the treasurer shall prepare a written evaluation of the proposals and preserve the evaluations for at least three (3) years.

6-35-313. Depositories of municipal funds.

(a)(1) The council, at a regular meeting, shall adopt a resolution to contract with a bank or banks making the best proposal to become the depository of municipal funds.

(2) Before entering into a contract under subdivision (a)(1), the city manager or an officer appointed by the city manager shall review and analyze the proposals from the banks and submit an analysis of the proposals to each member of the council at or before the next meeting of the council. The analysis of the proposals should consider the bank or banks proposing the highest interest rate, potential service charges or other fees, factors affecting safety and liquidity of municipal funds, and any other relevant factors.

(b) The council shall require any bank that becomes a depository of municipal funds to secure the funds by collateral in the same manner and under the same conditions as state deposits under title 9, chapter 4, parts 1 and 4, or as provided in a collateral pool created under title 9, chapter 4, part 5.

(c) Notwithstanding any law to the contrary, at least once every four (4) years, the city manager or an officer appointed by the city manager shall reevaluate the contracts entered into pursuant to subsection (a). The city manager or an officer appointed by the city manager shall base its evaluation on proposals obtained from at least two (2) banks. The city manager or an officer appointed by the city manager shall prepare a written evaluation of the proposals and preserve the evaluations for at least three (3) years.

6-51-105. Referendum on annexation.

(a) At least thirty (30) days and not more than sixty (60) days after the last of such publications, the proposed annexation of territory shall be submitted by the county election commission in an election held on the request and at the expense of the proposing municipality, for approval or disapproval of the qualified voters who reside in or own property in the territory proposed for annexation; provided, that not more than two (2) persons are entitled to vote based upon ownership of an individual tract of property, regardless of the number of owners of such property.

(b) The legislative body of the municipality affected may also at its option submit the questions involved to a referendum of the people residing within the municipality.

(c) In the election or elections to be held, the questions submitted to the qualified voters shall be "For Annexation" and "Against Annexation."

(d) The county election commission shall promptly certify the results of the election or elections to the municipality. Upon receiving the certification from the county election commission, the municipality shall forward a copy of the certification to the county mayor in whose county the territory being annexed is located.

(e) If a majority of all the qualified voters voting thereon in the territory proposed to be annexed, or in the event of two (2) elections as provided for in subsections (a) and (b), a majority of the voters voting thereon in the territory to be annexed and a majority of the voters voting thereon in the municipality approve the resolution, annexation as provided therein shall become effective thirty (30) days after the certification of the election or elections.

(f) [Deleted by 2015 amendment]

6-51-115. Receipt and distribution of tax revenues. [Effective until July 1, 2021. See the version effective on July 1, 2021.]

(a) Notwithstanding any law to the contrary, whenever a municipality extends its boundaries by annexation, the county or counties in which the municipality is located shall continue to receive the revenue from all state and local taxes distributed on the basis of situs of collection, generated within the annexed area, until July 1 following the annexation, unless the annexation takes effect on July 1.

(1) If the annexation takes effect on July 1, then the municipality shall begin receiving revenue from such taxes generated within the annexed area for the period beginning July 1.

(2) Whenever a municipality extends its boundaries by annexation, the municipality shall notify the department of revenue of such annexation upon the annexation becoming effective, for the purpose of tax administration.

(3) Such taxes shall include the local sales tax authorized in § 67-6-702, the wholesale beer tax authorized in § 57-6-103, the income tax on dividends authorized in § 67-2-102, and all other such taxes distributed to counties and municipalities based on the situs of their collection.

(b) In addition to subsection (a), when a municipality annexes territory in which there is retail or wholesale activity at the time the annexation takes effect or within three (3) months after the annexation date, the following shall apply:

(1) Notwithstanding § 57-6-103 or any other law to the contrary, for wholesale activity involving the sale of beer, the county shall continue to receive annually an amount equal to the amount received by the county in the twelve (12) months immediately preceding the effective date of the annexation for beer establishments in the annexed area that produced wholesale beer tax revenues during that entire twelve (12) months. For establishments that produced wholesale beer tax revenues for at least one (1) month but less than the entire twelve-month period, the county shall continue to receive an amount annually determined by averaging the amount of wholesale beer tax revenue produced during each full month the establishment was in business during that time and multiplying this average by twelve (12). For establishments that did not produce revenue before the annexation date but produced revenue within three (3) months after the annexation date, and for establishments that produced revenue for less than a full month prior to annexation, the county shall continue to receive annually an amount determined by averaging the amount of wholesale beer tax revenue produced during the first three (3) months the establishment was in operation and multiplying this average by twelve (12). This subdivision (b)(1) is subject to the exceptions in subsection (c). A municipality shall only pay the county the amount required by this subdivision (b)(1), for a period of fifteen (15) years.

(2) Notwithstanding § 67-6-712 or any other law to the contrary, for retail activity subject to the 1963 Local Option Revenue Act, compiled in title 67, chapter 6, part 7, the county shall continue to receive annually an amount equal to the amount of revenue the county received pursuant to § 67-6-712(a)(2)(A) in the twelve (12) months immediately preceding the effective date of the annexation for business establishments in the annexed area that produced 1963 Local Option Revenue Act revenue during that entire twelve

(12) months. For business establishments that produced such revenues for more than a month but less than the full twelve-month period, the county shall continue to receive an amount annually determined by averaging the amount of local option revenue produced by the establishment and allocated to the county under § 67-6-712(a)(2)(A) during each full month the establishment was in business during that time and multiplying this average by twelve (12). For business establishments that did not produce revenue before the annexation date and produced revenue within three (3) months after the annexation date, and for establishments that produced revenue for less than a full month prior to annexation, the county shall continue to receive annually an amount determined by averaging the amount of the 1963 Local Option Revenue Act produced and allocated to the county under § 67-6-712(a)(2)(A) during the first three (3) months the establishment was in operation and multiplying this average by twelve (12). This subdivision (b)(2) is subject to the exceptions in subsection (c). A municipality shall only pay the county the amount required by this subdivision (b)(2), for a period of fifteen (15) years.

(c) Subsection (b) is subject to these exceptions:

(1) Subdivision (b)(1) ceases to apply as of the effective date of the repeal of the wholesale beer tax, should this occur;

(2) Subdivision (b)(2) ceases to apply as of the effective date of the repeal of the 1963 Local Option Revenue Act, compiled in title 67, chapter 6, part 7, should this occur;

(3) Should the general assembly reduce the amount of revenue from the Wholesale Beer Tax, compiled in title 57, chapter 6, part 1, or the 1963 Local Option Revenue Act accruing to municipalities by changing the distribution formula, the amount of revenue accruing to the county under subsection (b) will be reduced proportionally as of the effective date of the reduction;

(4) A county, by resolution of its legislative body, may waive its rights to receive all or part of the revenues provided by subsection (b). In these cases, the revenue shall be distributed as provided in §§ 57-6-103 and 67-6-712 of the respective tax laws unless otherwise provided by agreement between the county and municipality; and

(5) Annual revenues paid to a county by or on behalf of the annexing municipality are limited to the annual revenue amounts provided in subsection (b) and known as “annexation date revenue” as defined in subdivision (d)(2). Annual situs-based revenues in excess of the “annexation date revenue” allocated to one (1) or more counties shall accrue to the annexing municipality. Any decrease in the revenues from the situs-based taxes identified in subsection (b) shall not affect the amount remitted to the county or counties pursuant to subsection (b), except as otherwise provided in this subsection (c); provided, that a municipality may petition the department of revenue no more often than annually to adjust annexation date revenue as a result of the closure or relocation of a tax producing entity.

(d)(1) It is the responsibility of the county within which the annexed territory lies to certify and to provide to the department a list of all tax revenue producing entities within the proposed annexation area.

(2) The department shall determine the local share of revenue from each tax listed in this section generated within the annexed territory for the year before the annexation becomes effective, subject to the requirements of subsection (b). This revenue shall be known as the “annexation date

revenue.”

(3) The department, with respect to the revenues described in subdivision (b)(2), and the municipality, with respect to the revenues described in subdivision (b)(1), shall annually distribute an amount equal to the annexation date revenue to the county of the annexed territory.

6-51-115. Receipt and distribution of tax revenues. [Effective on July 1, 2021. See the version effective until July 1, 2021.]

(a) Notwithstanding any law to the contrary, except that § 67-6-716 shall control the effective date of local jurisdictional boundary changes for sales and use tax purposes, whenever a municipality extends its boundaries by annexation, the county or counties in which the municipality is located shall continue to receive the revenue from all state and local taxes distributed on the basis of situs of collection, generated within the annexed area, until July 1 following the annexation, unless the annexation takes effect on July 1.

(1) If the annexation takes effect on July 1, then the municipality shall begin receiving revenue from such taxes generated within the annexed area for the period beginning July 1.

(2) Whenever a municipality extends its boundaries by annexation, the municipality shall notify the department of revenue of such annexation upon the annexation becoming effective, for the purpose of tax administration.

(3) Such taxes shall include the local sales tax authorized in § 67-6-702, the wholesale beer tax authorized in § 57-6-103, the income tax on dividends authorized in § 67-2-102, and all other such taxes distributed to counties and municipalities based on the situs of their collection.

(b) In addition to subsection (a), when a municipality annexes territory in which there is retail or wholesale activity at the time the annexation takes effect or within three (3) months after the annexation date, the following shall apply:

(1) Notwithstanding § 57-6-103 or any other law to the contrary, for wholesale activity involving the sale of beer, the county shall continue to receive annually an amount equal to the amount received by the county in the twelve (12) months immediately preceding the effective date of the annexation for beer establishments in the annexed area that produced wholesale beer tax revenues during that entire twelve (12) months. For establishments that produced wholesale beer tax revenues for at least one (1) month but less than the entire twelve-month period, the county shall continue to receive an amount annually determined by averaging the amount of wholesale beer tax revenue produced during each full month the establishment was in business during that time and multiplying this average by twelve (12). For establishments that did not produce revenue before the annexation date but produced revenue within three (3) months after the annexation date, and for establishments that produced revenue for less than a full month prior to annexation, the county shall continue to receive annually an amount determined by averaging the amount of wholesale beer tax revenue produced during the first three (3) months the establishment was in operation and multiplying this average by twelve (12). This subdivision (b)(1) is subject to the exceptions in subsection (c). A municipality shall only pay the county the amount required by this subdivision (b)(1), for a period of fifteen (15) years.

(2) Notwithstanding § 67-6-712 or any other law to the contrary, for retail activity subject to the 1963 Local Option Revenue Act, compiled in title 67,

chapter 6, part 7, the county shall continue to receive annually an amount equal to the amount of revenue the county received pursuant to § 67-6-712(a)(2)(A) in the twelve (12) months immediately preceding the effective date of the annexation for business establishments in the annexed area that produced 1963 Local Option Revenue Act revenue during that entire twelve (12) months. For business establishments that produced such revenues for more than a month but less than the full twelve-month period, the county shall continue to receive an amount annually determined by averaging the amount of local option revenue produced by the establishment and allocated to the county under § 67-6-712(a)(2)(A) during each full month the establishment was in business during that time and multiplying this average by twelve (12). For business establishments that did not produce revenue before the annexation date and produced revenue within three (3) months after the annexation date, and for establishments that produced revenue for less than a full month prior to annexation, the county shall continue to receive annually an amount determined by averaging the amount of the 1963 Local Option Revenue Act produced and allocated to the county under § 67-6-712(a)(2)(A) during the first three (3) months the establishment was in operation and multiplying this average by twelve (12). This subdivision (b)(2) is subject to the exceptions in subsection (c). A municipality shall only pay the county the amount required by this subdivision (b)(2), for a period of fifteen (15) years.

(3) When the amount of local option sales tax produced by businesses in the annexed area cannot be determined from sales tax returns filed by the businesses, the commissioner may determine the amount to be distributed to the county over the fifteen-year period based on the best information available. For this purpose, the commissioner may use information obtained from business tax returns or obtain additional information from the businesses involved.

(c) Subsection (b) is subject to these exceptions:

(1) Subdivision (b)(1) ceases to apply as of the effective date of the repeal of the wholesale beer tax, should this occur;

(2) Subdivision (b)(2) ceases to apply as of the effective date of the repeal of the 1963 Local Option Revenue Act, should this occur;

(3) Should the general assembly reduce the amount of revenue from the Wholesale Beer Tax, compiled in title 57, chapter 6, part 1, or the 1963 Local Option Revenue Act, accruing to municipalities by changing the distribution formula, the amount of revenue accruing to the county under subsection (b) will be reduced proportionally as of the effective date of the reduction;

(4) A county, by resolution of its legislative body, may waive its rights to receive all or part of the revenues provided by subsection (b). In these cases, the revenue shall be distributed as provided in §§ 57-6-103 and 67-6-712 of the respective tax laws unless otherwise provided by agreement between the county and municipality; and

(5) Annual revenues paid to a county by or on behalf of the annexing municipality are limited to the annual revenue amounts provided in subsection (b) and known as "annexation date revenue" as defined in subdivision (d)(2). Annual situs-based revenues in excess of the "annexation date revenue" allocated to one (1) or more counties shall accrue to the annexing municipality. Any decrease in the revenues from the situs-based taxes identified in subsection (b) shall not affect the amount remitted to the county or counties

pursuant to subsection (b), except as otherwise provided in this subsection (c); provided, that a municipality may petition the department of revenue no more often than annually to adjust annexation date revenue as a result of the closure or relocation of a tax producing entity.

(d)(1) It is the responsibility of the county within which the annexed territory lies to certify and to provide to the department a list of all tax revenue producing entities within the proposed annexation area.

(2) The department shall determine the local share of revenue from each tax listed in this section generated within the annexed territory for the year before the annexation becomes effective, subject to the requirements of subsection (b). This revenue shall be known as the "annexation date revenue."

(3) The department, with respect to the revenues described in subdivision (b)(2), and the municipality, with respect to the revenues described in subdivision (b)(1), shall annually distribute an amount equal to the annexation date revenue to the county of the annexed territory.

6-51-121. Recording of annexation resolution by annexing municipality.

Upon referendum approval of an annexation resolution as provided in this part, an annexing municipality shall record the resolution with the register of deeds in the county or counties where the annexation was adopted or approved. The resolution must include a detailed description of the annexed territory, including, but not limited to, map and parcel numbers of all real property within the annexed territory. A copy of the resolution, map, and detailed description must be sent to the comptroller of the treasury and the assessor of property for each county affected by the annexation.

6-51-203. Recording of deannexation ordinance by contracting municipality.

Upon approving deannexation by ordinance in accordance with § 6-51-201, a contracting municipality shall record the ordinance with the register of deeds in the county or counties where the deannexation was adopted or approved. The ordinance must include a detailed description of the deannexed territory, including, but not limited to, map and parcel numbers of all real property within the deannexed territory. A copy of the ordinance, map, and detailed description must also be sent to the comptroller of the treasury and the assessor of property for each county affected by the deannexation.

6-54-131. [Repealed.]

6-54-146. Prohibited regulation of business of person under 18 years of age.

(a) As used in this section:

(1) "Business" means any enterprise carried on for the purpose of gain or economic profit; and

(2) "Gross receipts":

(A) Means all receipts from whatever sources derived before any deductions; and

(B) Does not include tips, gratuities, or other amounts customarily assumed to be intended for the person who has served the customer or

client.

(b) Notwithstanding any law to the contrary, a municipality shall not require a license, permit, or any other form of regulation for a business that:

- (1) Is operated solely by a person or persons under eighteen (18) years of age;
- (2) Is located on private property with the permission of the property owner; and
- (3) Generates gross receipts of three thousand dollars (\$3,000) or less in a calendar year.

6-56-110. Depositories of municipal funds.

(a)(1) The contracting authority for a municipality shall contract with a bank or banks making the best proposal to become the depository of municipal funds.

(2) Before entering into a contract under subdivision (a)(1), the contracting authority for a municipality or the contracting authority's designee shall review and analyze the proposals from the banks. The analysis of the proposals should consider the bank or banks proposing the highest interest rate, potential service charges or other fees, factors affecting safety and liquidity of municipal funds, and any other relevant factors.

(b) The contracting authority for the municipality shall require any bank that becomes a depository of municipal funds to secure the funds by collateral in the same manner and under the same conditions as state deposits under title 9, chapter 4, parts 1 and 4, or as provided in a collateral pool created under title 9, chapter 4, part 5.

(c) Notwithstanding any law to the contrary, at least once every four (4) years, the contracting authority for the municipality or their designee shall reevaluate the contracts entered into pursuant to subsection (a). The contracting authority for the municipality or their designee shall base the evaluation on proposals obtained from at least two (2) banks. The contracting authority for a municipality or their designee shall prepare a written evaluation of the proposals and preserve the evaluations for at least three (3) years.

(d) This section applies to any municipality that does not have banking evaluation provisions in its charter that are at least as detailed as those provided in this section.

7-1-101. Definitions — Chapters 1-6.

As used in chapters 1-6 of this title, unless the context otherwise requires:

- (1) "City governing body" means the city council or other public agency possessing power and authority usually possessed by a city council;
- (2) "County governing body" means that body in a particular county that is vested with the power to levy property taxes;
- (3) "General services district" means a service district within a metropolitan government whose geographical limits are coextensive with the total area in which the government functions;
- (4) "Metropolitan government" means the political entity created by consolidation of all, or substantially all, of the political and corporate functions of a county and a city or cities;
- (5) "Metropolitan government charter commission" or "charter commission" means a commission established to propose to the voters for adoption

the charter for a metropolitan government;

(6) "Municipal corporation" means an incorporated city or town;

(7) "Principal city" means:

(A) That municipal corporation having the largest population of any municipality in a particular county; or

(B) If the municipal corporation having the largest population of any municipality in a county fails to adopt a consolidation resolution within ninety (90) days of the county's adoption of a consolidation resolution, the county seat of that county, if the county seat is an incorporated municipality;

(8) "Smaller city" means any municipal corporation other than the principal city; and

(9) "Urban services district" means a service district within a metropolitan government in which are furnished by the metropolitan government municipal services additional to those provided in the general services district.

7-4-202. Additional tax on hotel room occupancy. [For Expiration of Provisions in Subsection (a) on May 21, 2020, See Subdivision (d)(2).]

(a) In addition to any other tax or fee imposed pursuant to this chapter on the occupancy of a hotel room, upon the adoption of an ordinance by the metropolitan council in a county having a metropolitan government, there is authorized an additional privilege tax of up to two dollars and fifty cents (\$2.50) upon the occupancy of each hotel room within the territory of that metropolitan government. The tax so imposed is a privilege tax upon each occupied room for each night of occupancy and is to be collected and distributed as provided in part 1 of this chapter.

(b) All revenues received by the metropolitan government from the privilege tax imposed pursuant to subsection (a) shall be deposited into a metropolitan government fund entitled "the convention center fund" and shall be used for the purpose of paying costs incurred in modification or construction of a publicly owned convention center in excess of four hundred million dollars (\$400,000,000) in costs located within the territory of the metropolitan government. The revenues may also be used for the operation, promotion, management and marketing of such a convention center. If the revenues from the surcharge or tax in any fiscal year exceed the total of the debt service requirements from that year, the surplus revenue thus accruing shall be retained by the metropolitan government as a reserve fund for future convention center debt service requirements.

(c) In the event that the total bonded indebtedness incurred for the modification or construction of the convention center facility by the metropolitan government is paid in full as to bond principal and interest, including expenses of bond sale or sales, the metropolitan government's taxing resolution imposing taxes authorized by subsection (a) shall be repealed and this tax shall no longer be levied; provided, however, that any funds and interest remaining in the reserve fund after all obligations imposed under this part have been fulfilled shall be used by the governmental board or agency responsible for the operation of the convention center for use by it in the operation, promotion and advertisement of the convention center facilities.

(d)(1) Upon the adoption of an ordinance by the metropolitan council in a county having a metropolitan government, all revenues received by the metropolitan government from the privilege tax imposed pursuant to subsection (a) and that exceed two dollars (\$2.00) shall be deposited into a metropolitan government fund entitled the event and marketing fund. For administrative purposes, the event and marketing fund and the committee that approves expenditures shall be attached to a convention and visitors bureau in a county having a metropolitan government or a similar entity approved by the metropolitan council and the metropolitan government mayor. The fund will be governed by a six-person committee and a chair who votes only to break a tie. The committee and the chair shall be appointed by the mayor of the metropolitan government. Members of the committee shall include at least one (1) person nominated by a hotel and lodging association located in the county having a metropolitan government, one (1) person from the hospitality industry, one (1) representative from a hotel corporation that operates a single hotel in a county with a metropolitan government with an excess of two thousand nine hundred (2,900) rooms, two (2) members of the public, one (1) person who owns or operates a business within the central business improvement district, and a chair to be selected by the mayor. Expenditures from the event and marketing fund may be used for any purpose allowable under § 7-4-110(a)(1). All expenditures are subject to the approval of the finance director of the metropolitan government. An audited financial statement shall be supplied annually to the finance director and the council of the metropolitan government.

(2) The authority to charge the amount of the privilege tax imposed on hotel room occupancy by subsection (a) in excess of two dollars (\$2.00) and the terms of the committee members shall expire six (6) years from May 21, 2020.

7-34-115. Operation of utility systems — Disposition of revenue.

(a)(1) Notwithstanding any other law to the contrary, as a matter of public policy, municipal utility systems shall be operated on sound business principles as self-sufficient entities. User charges, rates and fees shall reflect the actual cost of providing the services rendered. No public works shall operate for gain or profit or as a source of revenue to a governmental entity, but shall operate for the use and benefit of the consumers served by such public works and for the improvement of the health and safety of the inhabitants of the area served. Nothing in this section shall preclude a municipal utility system from operating water and sewer systems as individual or combined entities. Nothing in this section shall preclude a municipal utility system from operating a public works system as a special revenue fund when the governing body of the municipality determines that it is in the best interest of the customers of the public works system and the citizens of the municipality. All water systems and wastewater facilities must utilize an enterprise fund for accounting and reporting its operations. Any water system or wastewater facility currently not operating as an enterprise fund must be doing so by July 1, 2016. To the extent of any conflict between this section and the Wastewater Facilities Act of 1987, compiled in title 68, chapter 221, part 10, the latter statute shall control. Any municipality shall devote all revenues derived from a public works to or for:

- (A) The payment of all operating expenses;
 - (B) Bond interest and retirement or sinking fund payments, or both;
 - (C) The acquisition and improvement of public works;
 - (D) Contingencies;
 - (E) The payment of other obligations incurred in the operation and maintenance of the public works and the furnishing of services;
 - (F) The redemption and purchase of bonds, in which case such bonds shall be cancelled;
 - (G) The creation and maintenance of a cash working fund;
 - (H) The payment of an amount to the general fund of the municipality not to exceed a cumulative return of six percent (6%) per annum of any equity invested from the general fund, if any, of the municipality. Equity investment includes any contributions or purchases made by the municipality from the general fund, including, but not limited to, cash contributions, retirement of debt service and purchases of equipment, so long as these contributions are reflected in the utility's financial statement; provided, that such definition of equity investment shall not change the status under this section of any payments made pursuant to any city charter in existence on or before July 1, 1993; and
 - (I) If the governing body of the municipality by resolution so requests, payments to the municipality in lieu of ad valorem tax on the property of the public works within the corporate limits of the municipality not to exceed the amount of taxes payable on privately owned property of similar nature.
- (2) Notwithstanding subdivision (a)(1) or any other law to the contrary, if the municipal utility system is a natural gas utility system, the municipal utility board with management responsibility for the municipal utility system or, if there is no such board, the municipal governing body, may also devote revenues derived from the system to funding chambers of commerce and economic and community organizations in accordance with an ordinance or resolution adopted by the governing body of the municipality. A municipal utility system whose revenues are devoted pursuant to this subdivision (a)(2) shall not raise rates on customers to cover contributions targeted for economic development efforts. The authorization provided in this subdivision (a)(2) shall only apply to municipal natural gas utility systems that are located in counties having a population of less than three hundred thirty-six thousand four hundred (336,400) according to the 2010 federal census, and the authorization provided in this subdivision (a)(2) is in addition to such authorization as may be provided to municipal utility systems under otherwise applicable law.
- (b) Any surplus remaining, after establishment of proper reserves, if any, shall be devoted solely to the reduction of rates.
 - (c) In the event a municipality establishes a pension plan for employees of public works, expenditures incident to inaugurating and maintaining such plan shall be deemed an operating expense for purposes of this section.
 - (d) In computing the equity investment of the municipality, the value of the public works shall be taken as its historical cost. The payment of bonds or the acquisition or improvement of property from the receipts derived from a public works or any other operation of the public works as such shall not be considered to increase the equity investment of the municipality.
 - (e) Nothing in this section shall be construed to limit the power of the

municipality to make contracts with the purchasers of bonds:

(1) As to the use and disposition of the revenues otherwise than as set forth in subsection (a);

(2) As to the order of application of such revenues; or

(3) As to limitations on the amount of payments to the municipality either as a return on the equity investment of the municipality, if any, or as a payment in lieu of taxes.

(f) If a municipality violates this section, it must repay any funds illegally transferred. If the municipality does not have sufficient funds to repay any funds illegally transferred, the municipality is required to submit a plan covering a period not to exceed five (5) years in which to repay the funds. The plan shall be submitted to and approved by the comptroller of the treasury or the comptroller's designee. Upon discovery of such violation through an audit, any city official in violation of this section is subject to ouster under title 8, chapter 47.

(g) Nothing in this section shall preclude a local government from being entitled to receive from a utility the amount of direct and properly allocated and disclosed indirect operating expenses incurred by the municipality on behalf of the utility.

(h) To the extent of any conflict between this section and § 7-39-404, or chapter 52, part 3 of this title, § 7-39-404, or chapter 52, part 3 of this title shall control.

(i)(1) In addition to the authority granted under otherwise applicable law, a municipality operating a municipal utility system may, acting through the authorization of the board or supervisory body having responsibility for the municipal utility system, accept and distribute excess receipts for bona fide charitable purposes pursuant to programs approved by the board or supervisory body, which programs may include, but are not limited to, programs in which utility bills are rounded up to the next dollar when the amount of any excess receipt due to rounding is shown as a separate line on the utility bill.

(2) Excess receipts accepted by a municipal utility system pursuant to programs authorized by subdivision (i)(1) are not considered revenue to the municipal utility system, and the municipality may only use the excess receipts for charitable purposes.

(3) For purposes of this subsection (i):

(A) "Charitable purpose" means a purpose that provides relief to the poor or underprivileged, advances education or science, addresses community deterioration, provides community assistance, assists in economic development, provides for the erection of public buildings, monuments, or works, assists in historic preservation, or promotes social welfare through nonprofit or governmental organizations designed to accomplish any of the purposes listed in this subdivision (i)(3); and

(B) "Opt-out basis" means automatically enrolling customers in a program and requiring notice from the customer of a desire to be removed from the program in order to cease participation in the program.

(4)(A) A municipal utility system that establishes a program authorized by subdivision (i)(1) on or after January 1, 2021, shall not enroll any customer into the program without the express consent of the customer.

(B) A customer who is enrolled in a program authorized by subdivision (i)(1) may opt out of the program by providing notice to the utility of the

customer's desire to cease participation in the program.

(C) Upon receiving an opt-out notice from a customer, the utility shall remove the customer from enrollment in the program no later than the first day of the customer's next regular billing cycle that begins no fewer than thirty (30) days after the date of the customer's opt-out notice.

(5)(A) Any municipal utility system that on June 3, 2019, utilizes a program authorized by subdivision (i)(1) and operates the program on an opt-out basis shall send a written notice to each municipal utility system customer no later than November 1, 2020, that contains, but is not limited to, the following information:

(i) A statement that the municipal utility system utilizes a program authorized by subdivision (i)(1), the program is operated on an opt-out basis, and a description of the program;

(ii) Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program; and

(iii) Contact information for the utility and instructions on how the customer may contact the utility to opt out of participation in the program.

(B) The written notice required by this subdivision (i)(5) may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the municipal utility system.

(C) A municipal utility system that on June 3, 2019, utilizes a program authorized by subdivision (i)(1) and operates the program on an opt-out basis that fails to send the notice required by this subdivision (i)(5) shall, on and after January 1, 2021, cease operating the program on an opt-out basis and shall not operate a program unless operated in compliance with subdivision (i)(4).

(6) Any municipal utility system that utilizes a program authorized by subdivision (i)(1) and that maintains a website that is accessible by the general public shall publish in a conspicuous location on the website by November 1, 2020, and throughout the duration of the municipal utility system's utilization of the program, the following information:

(A) A statement that the municipal utility system utilizes a program authorized by subdivision (i)(1) and a description of the program;

(B) Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program; and

(C) Contact information for the utility and instructions on how the customer may contact the utility to opt into or out of participation in the program.

(j)(1) The governing body of a municipal utility system subject to this section that supervises, controls, or operates a public water or public sewer system, including, but not limited to, those systems using a separate utility board pursuant to any public or private act, must meet the training and continuing education requirements in this subsection (j).

(2) All members of the municipal utility board of commissioners shall, within one (1) year of initial appointment or election to the board of commissioners or within one (1) year of reappointment or reelection to the board of commissioners, attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (j)(4).

(3)(A) In each continuing education period after the initial training and continuing education required by subdivision (j)(2), a municipal utility

board commissioner shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (j)(4).

(B) For the purposes of this subsection (j) and subsection (k), “continuing education period” means a period of three (3) years beginning January 1 after the calendar year in which a municipal utility board commissioner completes the training and continuing education requirements set forth in subdivision (j)(2) and each succeeding three-year period thereafter.

(4) The subjects for the training and continuing education required by this subsection (j) shall include, but not be limited to, board governance, financial oversight, policy-making responsibilities, and other topics reasonably related to the duties of the members of the board of commissioners of a municipal utility.

(5) Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for municipal utility board commissioners covering the subjects set forth in subdivision (j)(4) to be submitted to the comptroller of the treasury for review and approval prior to use. The comptroller shall file a copy of approved training and continuing education curriculum with the water and wastewater financing board. Changes and updates to the curriculum must be submitted to the comptroller for approval prior to use. Any training and continuing education curriculum approved by the comptroller must be updated every three (3) years and resubmitted to the comptroller for review and approval.

(6) For purposes of this subsection (j), a municipal utility board commissioner may request a training and continuing education extension of up to six (6) months from the comptroller of the treasury or the comptroller’s designee. The request shall only be granted upon a reasonable showing of substantial compliance with this subsection (j). If the extension is granted, the municipal utility board commissioner must complete any additional required training hours necessary to achieve full compliance for only the relevant continuing education period within the extension period. The municipal utility board commissioner shall file copies of any extension request letters and corresponding comptroller of the treasury determination letters with the water and wastewater financing board.

(7)(A) Beginning no later than March 1, 2019, the comptroller of the treasury shall offer online training and continuing education courses for purposes of compliance with this subsection (j).

(B) Any association or organization with appropriate knowledge and experience may prepare an online training and continuing education curriculum for municipal utility board commissioners covering the subjects set forth in subdivision (j)(4) to be submitted to the comptroller of the treasury for review and approval prior to use.

(C) The comptroller of the treasury shall file a copy of approved online training and continuing education curriculum with the water and wastewater financing board. Changes and updates to the curriculum must be submitted to the comptroller of the treasury for approval prior to use. Any online training and continuing education curriculum approved by the comptroller of the treasury must be updated every three (3) years and resubmitted to the comptroller of the treasury for review and approval.

(D) Any person required to complete training and continuing education under this subsection (j) may take one (1) or more of such online courses

in lieu of attending training and continuing education courses in person.

(E) The online training and continuing education provider shall provide a certificate of completion or attendance that shall be submitted by the municipal utility board commissioner to the municipality. Each municipality shall keep the certificate of completion or attendance for six (6) years after the calendar year in which the certificate of completion or attendance is submitted.

(k) If any member of a municipal utility board of commissioners fails to meet the training and continuing education requirements set forth in subsection (j) before the end of the continuing education period or before the end of any extension approved by the comptroller of the treasury or the comptroller's designee, then the water and wastewater financing board shall have full discretion to order reasonable sanctions against the municipality, including, but not limited to, the municipality being ineligible to receive assistance from the Tennessee local development authority under § 68-221-1206(a)(3).

(l) Notwithstanding any other law to the contrary, a municipal utility system providing water, sewer, or natural gas service has the power to enter into agreements with companies to provide water, sewer, or natural gas leak protection bill coverage, insurance, or service agreements for customers and to offer their customers water line, sewer line, or natural gas line damage protection coverage, insurance, or service agreements for customer-owned water, sewer, or natural gas lines. The municipal utility system may include the costs for the coverage, insurance, or service agreements on the monthly utility bills of their customers.

7-36-107. Powers of authority.

(a) The authority is authorized, effective immediately upon the effective date of its formation, either singly or jointly with one (1) or more persons, municipalities, or federal agencies, or with this state, or with one (1) or more agencies or instrumentalities of this state or any municipality:

(1) To sue and be sued;

(2) To have a seal and alter the same at pleasure;

(3) To acquire, construct, improve, furnish, equip, finance, own, operate, and maintain within or outside the corporate limits of the associated municipality, a system for the furnishing of electrical service and to provide electric service to any person, governmental entity, or other user or consumer of electric services within or outside the associated municipality. The system shall be operated as a financially separate system independent of, and financially separate from, the other utility systems of the authority, and, except to the extent the authority succeeds to the rights and powers of the municipal electric system, the authority shall not exercise any of the powers granted in this subdivision (a)(3) wholly or partly within the legal boundaries of an incorporated city or town or electric cooperative, except as allowed by law;

(4) To acquire, construct, improve, furnish, equip, finance, own, operate, and maintain, within or outside the corporate limits of the associated municipality, a system for the furnishing of water service and to provide water service to any person, governmental entity, or other user or consumer of water services within or outside the associated municipality; provided, the system shall be operated as a financially separate system independent of,

and financially separate from, the other utility systems of the authority and managed by the water division of the authority; and provided, further, the authority shall not exercise any of the powers granted in this subdivision (a)(4) wholly or partly within the legal boundaries of a utility district incorporated pursuant to the Utility District Act of 1937, compiled in chapter 82 of this title, or any other municipality, except to the extent the authority succeeds to the rights and powers of a municipal water system or except as allowed by law, without the consent of the governing body of such utility district or municipality;

(5) To acquire, construct, improve, furnish, equip, finance, own, operate, and maintain within or outside the corporate limits of the associated municipality, a system for providing wastewater service to any person, governmental entity, or other user or consumer of wastewater services within and outside the associated municipality; provided, the system shall be operated as a financially separate system independent of, and financially separate from, the other utility systems of the authority and managed by the wastewater division of the authority; and provided, further, the authority shall not exercise any of the powers granted in this subdivision (a)(5) wholly or partly within the legal boundaries of a utility district incorporated pursuant to the Utility District Act of 1937, or any other municipality, except to the extent the authority succeeds to the rights and powers of the municipal wastewater system or except as allowed by law, without the consent of the governing body of such utility district or municipality;

(6) To acquire, construct, improve, furnish, equip, finance, own, operate, and maintain within and outside the corporate limits of the associated municipality, a system for the furnishing of telecommunications service and to provide telecommunications service to any person, governmental entity, or other user or consumer of telecommunications services within or outside the associated municipality. The system shall be operated as a financially separate system independent of, and financially separate from, the other utility systems of the authority; provided:

(A) To the extent that the authority, or any joint venture, partnership, or cooperative arrangement of which the authority is a party, or any limited liability company or not-for-profit corporation of which the authority is a member provides telephone or telegraph services, the authority, or such other entity, shall be subject to regulation by the Tennessee public utility commission in the same manner and to the same extent as other certified providers of such services, including, but not limited to, rules or orders governing anticompetitive practices, and shall be considered as and have the duties of a public utility, as defined in § 65-4-101, but only to the extent necessary to effect such duties and only with respect to the authority's provision of telephone and telegraph services;

(B) The authority shall have all the powers and authority conferred upon municipalities by §§ 7-52-401; 7-52-402; 7-52-403; 7-52-405; 7-52-406; 7-52-601 — 7-52-605, but excluding any requirement under § 7-52-603(a)(1)(A) to create multiple divisions for telecommunications services; and §§ 7-52-609 — 7-52-611. In the exercise of such powers, the authority shall be subject to all the obligations, restrictions, and limitations imposed upon municipalities by those sections and imposed upon providers of the services described in those sections by federal law. All actions authorized by those sections to be taken by the board or supervisory body having

responsibility for a municipal electric plant shall be authorized to be taken by the board of directors of the authority and all powers granted to a municipal electric system under those statutes shall be exercised by the electric division of the authority;

(C) Nothing in this subdivision (a)(6) operates to restrict or impair in any way the ability of the authority to acquire, construct, improve, furnish, equip, finance, own, operate, and maintain a telecommunications system or to offer or provide telecommunications services through one (1) or more other systems of the authority, if such system and services are related to the provision of services of such system or the operation of the system, including, without limitation, load control, meter reading, appliance monitoring, power exchange, billing, or any other similar or component service; and

(D) Notwithstanding this chapter to the contrary, the authority shall be subject to the territorial limitations set forth in § 7-52-601 in the same manner and to the same extent as such limitations apply from time to time to a municipal electric system providing services pursuant to § 7-52-601;

(7) To fix, levy, charge, and collect fees, rents, tolls, or other charges for the use of, or in connection with, any system of the authority as shall be consistent with the provision of the services pursuant to this chapter or sale or other disposition of the commodities provided by the various utilities authorized in this section based on cost, sound economy, public good, and prudent business operations, which fees, rents, tolls, or charges shall be established by the board without the necessity of review or approval by any other municipality, the state, or any commission or authority thereof or any federal agency other than as provided in federal statutes or contracts and other than as provided in subdivision (a)(6). Whenever any fees, rents, tolls, or other charges for telephone or telegraph services regulated pursuant to subdivision (a)(6) are to change, such fees, rents, tolls, or charges shall be established by the board and be subject to review and approval by the Tennessee public utility commission in the same manner and to the same extent as other certified providers of such services;

(8) To acquire, hold, own, and dispose of property, real and personal, tangible and intangible, or interests therein, in its own name, subject to mortgages or other liens or otherwise and to pay for property in cash or on credit through installment payments, and to secure the payment of all or any part of any installment obligations in connection with any acquisition;

(9) To have complete control and supervision of any system of the authority and to make such rules governing the rendering of service thereby as may be just and reasonable;

(10) To contract debts, borrow money, issue bonds, and enter into lease-purchase agreements to acquire, construct, improve, furnish, equip, extend, operate, or maintain any system, or any part thereof, or to provide the authority's share of the funding for any joint undertaking or project, and to assume and agree to pay any indebtedness incurred for any of the purposes described in this subdivision (a)(10);

(11) To accept gifts or grants of money or property, real or personal, and voluntary and uncompensated services or other financial assistance from any person, state agency, federal agency, or municipality, for, or in aid of, the acquisition or improvement of any system;

(12)(A) To accept and distribute excess receipts for bona fide economic development or community assistance purposes pursuant to programs

approved by the board, which programs may include, but are not limited to, programs in which bills to customers are rounded up to the next dollar when the amount of any excess receipt due to rounding is shown as a separate line on the bill, and excess receipts accepted pursuant to such programs are not considered revenue to the authority, and the authority may only use the excess receipts for economic development or community assistance purposes;

(B)(i) An authority that establishes a program authorized by subdivision (a)(12)(A) on or after January 1, 2021, shall not enroll any customer into the program without the express consent of the customer;

(ii) A customer who is enrolled in a program authorized by subdivision (a)(12)(A) may opt out of the program by providing notice to the authority of the customer's desire to cease participation in the program;

(iii) Upon receiving an opt-out notice from a customer, the authority shall remove the customer from enrollment in the program no later than the first day of the customer's next regular billing cycle that begins no fewer than thirty (30) days after the date of the customer's opt-out notice;

(C)(i) Any authority that on June 3, 2019, utilizes a program authorized by subdivision (a)(12)(A) and operates the program on an opt-out basis shall send a written notice to each customer of the authority no later than November 1, 2020, that contains, but is not limited to, the following information:

(a) A statement that the authority utilizes a program authorized by subdivision (a)(12)(A), the program is operated on an opt-out basis, and a description of the program;

(b) Notification that a customer whose bill is currently rounded up by the authority has the right to opt out of participation in the program; and

(c) Contact information for the authority and instructions on how the customer may contact the authority to opt out of participation in the program;

(ii) The written notice required by this subdivision (a)(12)(C) may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the authority;

(iii) A municipal utility system that on June 3, 2019, utilizes a program authorized by subdivision (a)(12)(A) and operates the program on an opt-out basis that fails to send the notice required by this subdivision (a)(12)(C) shall, on and after January 1, 2021, cease operating the program on an opt-out basis and shall not operate a program unless operated in compliance with subdivision (a)(12)(B); and

(iv) For purposes of this subdivision (a)(12), "opt-out basis" means automatically enrolling customers in a program and requiring notice from the customer of a desire to be removed from the program in order to cease participation in the program; and

(D) Any authority that utilizes a program authorized by subdivision (a)(12)(A) and that maintains a website that is accessible by the general public shall publish in a conspicuous location on the website by November 1, 2020, and throughout the duration of the authority's utilization of the program, the following information:

(i) A statement that the authority utilizes a program authorized by

subdivision (a)(12)(A) and a description of the program;

(ii) Notification that a customer whose bill is currently rounded up by the authority has the right to opt out of participation in the program; and

(iii) Contact information for the utility and instructions on how the customer may contact the utility to opt into or out of participation in the program;

(13) To condemn either the fee or such right, title, interest, or easement in property as the board may deem necessary for any of the purposes mentioned in this chapter, and such property or interest in such property may be so acquired whether or not the same is owned or held for public use by corporations, associations, or persons having the power of eminent domain, or otherwise held or used for public purposes, and such power of condemnation may be exercised in the method of procedure prescribed by title 29, chapter 16, or in the method of procedure prescribed by any other applicable statutory provisions for the exercise of the power of eminent domain; provided, however, that where title to any property sought to be condemned is defective, it shall be passed by decree of court. Where condemnation proceedings become necessary, the court in which such proceedings are filed shall, upon application by the authority and upon the posting of a bond with the clerk of the court in such amount as the court may deem commensurate with the value of the property, order that the right of possession shall issue immediately or as soon and upon such terms as the court, in its discretion, may deem proper and just;

(14) To make and execute any contract and instrument necessary or convenient for the full exercise of the powers granted in this section, and in connection therewith to stipulate and agree to such covenants, terms, and conditions, and such term or duration as shall be appropriate, including, without limitation, contracts for the purchase or sale of any of the commodities or services authorized in this section to be provided by the authority, and carry out and perform the covenants, terms, and conditions of such contracts and instruments. In connection with any contract to acquire or sell any of the commodities or services authorized in this section, the authority may enter into commodity price exchange or swap agreements, agreements establishing price floors or ceilings, or both, or other price hedging contracts with any person or entity under such terms and conditions as the authority may determine, including, without limitation, provisions permitting the authority to indemnify or otherwise pay any person or entity for any loss of benefits under such agreement upon early termination thereof or default thereunder. When entering into any such contract or arrangement or any such swap, exchange, or hedging agreement evidencing a transaction bearing a reasonable relationship to this state and also to another state or nation, the authority may agree in the written contract or agreement that the rights and remedies of the parties thereto shall be governed by the laws of this state or the laws of such other state or nation; provided, that jurisdiction over the authority shall lie solely in the courts sitting in the county where the authority's principal office is located. Nothing in the selection of laws of another state or nation shall alter, impair, or modify the rights, privileges, and obligations of the authority as a governmental entity under this chapter and under the laws of this state;

(15) To sell, exchange, or interchange any of the commodities or services authorized to be provided in this section either within or outside this state

and to establish prices to be paid for such commodities or services, and establish pricing structures with respect thereto, including provision for price rebates, discounts, and dividends; and, in connection with any such sales, exchanges, or interchanges, to act as agent for such consumers, to secure contracts and arrangements with other entities or persons, to make contracts for the sale, exchange, interchange, pooling, transmission, storage, or distribution of any of the commodities or services authorized to be provided in this section, inside or outside this state, and to transmit, transport, and distribute any such commodities or services both for itself and on behalf of others;

(16) To make contracts and execute instruments containing such covenants, terms, and conditions as may be necessary, proper, or advisable for the purpose of obtaining loans from any source, or grants, loans, or other financial assistance from the state or any federal agency, and to carry out and perform the covenants and terms and conditions of all such contracts and instruments;

(17) To enter on any lands, waters, and premises for the purpose of making surveys, soundings, and examinations in connection with the acquisition, improvement, operation, or maintenance of any system and the furnishing of any of the services authorized to be provided in this section;

(18) To use any right-of-way, easement, or other similar property right necessary or convenient in connection with the acquisition, improvement, operation, or maintenance of one (1) or more systems, held by this state, the associated municipality, or any other municipality; provided, that such other municipality shall consent to such use;

(19) To provide to any municipality, person, federal agency, this state, or any agency or instrumentality thereof, transmission, storage, or transportation capacity for any of the commodities or services authorized in this section, and management and purchasing services associated therewith;

(20) To employ, engage, retain, and pay compensation to such officers, agents, consultants, professionals, and employees of the authority as shall be necessary to operate the systems, manage the affairs of the authority, and otherwise further the purposes of the authority and the exercise of the powers thereof, and to fix their compensation and to establish a program of employee benefits, including a retirement system;

(21) To establish a retirement system for all employees of the authority and to maintain all rights and benefits of employees as they existed under the retirement system of the municipal electric system without diminution;

(22) To enter into joint ventures and cooperative arrangements with one (1) or more persons, including the formation of a partnership, limited liability company, or not-for-profit corporation to accomplish any of the purposes set forth in this section or to exercise any of the powers set forth in this section;

(23) Upon proper action by the associated municipality, to commence operating the systems and to exercise exclusive control and direction of the systems and, upon proper action by the associated municipality, to accept title to the assets and assume the liabilities of the systems, and upon such action to hold all the rights as existed with the municipal electric system without diminution;

(24) To do business under one (1) or more assumed corporate names pursuant to § 7-36-105(d);

(25) To manage and operate utility systems owned by other persons. Such management or operating agreements shall be consistent with subdivision (a)(3), as applicable;

(26) To enter into mutual aid agreements with other utility systems and other persons;

(27) To assist persons to whom the authority sells electric power, energy, water, wastewater, or telecommunications in installing fixtures, appliances, apparatus, and equipment of all kinds and character and, in connection therewith, to purchase, acquire, lease, sell, distribute, make loans, provide service contracts, and repair such fixtures, appliances, apparatus, and equipment and sell, assign, transfer, endorse, pledge, and otherwise dispose of notes or other evidences of indebtedness any and all types of security therefor;

(28) To have such powers as are now or hereafter authorized for municipal electric, water, and wastewater utilities within this state; and

(29) To do any act authorized in this section or necessary or convenient to carry out the powers expressly given in this chapter under, through, or by means of its own officers, agents, and employees, or by contracts with any person, federal agency, or municipality.

(b) The authority's water and wastewater systems shall have all the powers, authority, duties, obligations, requirements, and oversight that are conferred and imposed upon municipalities and a municipality's water and wastewater system in title 68, chapter 221. All actions authorized and required by title 68, chapter 221 to be taken by the board or supervisory body having responsibility for a municipality's water or wastewater system shall be authorized to be taken by the board of directors of the authority, and all powers, authority, duties, obligations, requirements, and oversight granted to and required of a municipality's water and wastewater system under title 68, chapter 221 shall be exercised by the water and wastewater divisions of the authority.

7-40-103. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Base tax revenues" means the revenues generated from the collection of state sales and use taxes from all businesses within the applicable border region retail tourism development district as of the end of the fiscal year of this state immediately prior to the year in which the municipality or industrial development corporation is entitled to receive an allocation of tax revenue pursuant to this chapter. In no event shall the apportionment pursuant to this chapter be adjusted to reduce the economic benefit to the municipality as is provided in this chapter;

(2) "Best interests of the state" means a determination by the commissioner of revenue, with approval by the commissioner of economic and community development, that:

(A) The economic development project or extraordinary retail or tourism facility within the district is a result of the special allocation and distribution of state sales tax provided for in § 7-40-106; and

(B) The district is a result of the project or extraordinary retail or tourism facility;

(3) "Border region retail tourism development district" or "district" means one (1) or more parcels of real property located within a municipality, some

part of whose corporate limits borders a neighboring state, and which some boundary of a district is no more than one-half ($\frac{1}{2}$) mile from an existing federally-designated interstate exit, is no more than twelve (12) miles from a state border as measured by straight line, is no larger than a total area of nine hundred fifty (950) acres, and designated as a border region retail tourism development district by a municipal ordinance and certified by the commissioner;

(4) "Commissioner" means the commissioner of revenue;

(5) "Cost" means all cost of an economic development project in a district incurred by the municipality or industrial development corporation during the investment period, including, but not limited to, the cost of developing the district, as well as acquisition, design, construction, renovation, improvement, demolition, and relocation of any improvements; the cost of labor, materials, and equipment; the cost of all lands, property rights, easements and franchises required; financing charges, interest, and debt service prior to, during, or after construction; the cost of issuing bonds in connection with any financing, cost of plans and specifications, services and estimates of costs and of revenue; cost of direct or indirect assistance, including funds for location assistance; cost of site preparation, engineering, accounting, and legal services; all expenses necessary or incident to determining the feasibility or practicability of such acquisitions or constructions; salaries, overhead, and other costs of the municipality or industrial development corporation allocated to the project, including new development or subsequent phases of the project to be completed within the thirty-year period established in § 7-40-104(d), and administrative, legal, and engineering expenses and such other expenses as may be necessary or incident to such acquisition, design, construction, renovation, demolition, relocation, or the financing thereof, including any such costs incurred by a municipality or industrial development corporation relating to the development of an extraordinary retail or tourism facility within two (2) years prior to the municipality's designation of the proposed border region retail tourism development district for such project;

(6) "Economic development project" or "project" means the provision of direct or indirect financial assistance, including funds for location assistance, to an extraordinary retail or tourism facility and other retail or tourism facilities developed to accompany the extraordinary retail or tourism facility in a border region retail tourism development district by a municipality or an industrial development corporation including, but not limited to, the purchase, lease, grant, construction, reconstruction, improvement, or other acquisition or conveyance of land, buildings or equipment, or other infrastructure; public works improvements essential to the location of an extraordinary retail or tourism facility and other retail or tourism facilities developed to accompany the extraordinary retail or tourism facility; payments for professional services contracts necessary for a municipality or industrial development corporation to implement a plan or project; the provision of direct loans or grants for land, buildings, or infrastructure; and loan guarantees securing the cost of land, buildings, location assistance, or infrastructure in an amount not to exceed the revenue that may be derived from the sales and use tax transferred to the municipality as provided in this chapter. It also includes development of parks, plazas, sidewalks, access ways, roads, drives, bridges, ramps, landscaping, signage, parking lots,

parking structures, and other public improvements constructed or renovated by the municipality or an industrial development corporation in connection with the project in the district and any related infrastructure and utility improvements for public or private peripheral development for the district and which is constructed, renovated, or installed by the municipality or an industrial development corporation;

(7) "Extraordinary retail or tourism facility" means a single store, series of stores, or other public tourism facility or facilities located within a border region retail tourism development district, or any combination of a single store, series of stores, or public tourism facility or facilities, and shall include retail or other public tourism facilities, or any combination of such retail and public tourism facilities that are reasonably anticipated to draw at least one million (1,000,000) visitors a year upon completion. The extraordinary retail or tourism facility shall reasonably be expected to require a capital investment of at least twenty million dollars (\$20,000,000) including land, buildings, site preparation costs, and is reasonably anticipated to remit at least two million dollars (\$2,000,000) in state sales and use tax, annually, when completed. The thresholds set forth in this subdivision (7) shall be met based on the performance or reasonably anticipated performance of the projects in the district as a whole, and the commissioner does not have the discretion to exclude consideration of the cost to develop any business in a district;

(8) "Industrial development corporation" means a corporation created or authorized by a municipality or county pursuant to chapter 53 of this title;

(9) "Investment period" means a period beginning two (2) years prior to the municipality's designation of the proposed border region retail tourism development district for the project and ending fifteen (15) years after certification of the district pursuant to § 7-40-104(a)(4);

(10) "Municipal governing body" means the city council, city commission, or board of mayor and aldermen of a city; and

(11) "Municipality" means an incorporated city located in this state.

7-40-104. Requirements for apportionment of state sales and use taxes.

(a) To be entitled to receive the apportionment of state sales and use taxes as provided in this chapter, the requirements set forth in subdivisions (a)(1)-(4) shall be met.

(1) A municipal legislative body shall adopt an ordinance designating the boundaries of the border region retail tourism development district; provided, however, that no municipality shall contain more than one (1) such district.

(2) The municipality shall then file a certified copy of the ordinance with the commissioner along with a request for certification of the district. The request shall include a master development plan for the proposed district containing such information as may be reasonably required by the commissioner. No change to, or deviation from, a master development plan for a district, once the district is certified, or change in, or deviation from, a project in a district that has been certified, shall result in a district losing its certification, or disqualification of any cost, so long as the district is reasonably anticipated to attain the thresholds set forth in § 7-40-103(7) based on objective professional standards. In order to support decertification

or disqualification of cost, the commissioner bears the burden of establishing that such change or deviation has caused the district to not be reasonably anticipated to attain the requisite thresholds set forth in § 7-40-103(7).

(3) The commissioner shall promptly review the request to confirm that the proposed boundaries of the proposed border region retail tourism development district do not exceed the maximum size set forth in this chapter. If the commissioner determines that the boundaries of the proposed border region retail tourism development district exceeds the area allowed by this chapter, then the commissioner may adjust or reduce the boundaries of the proposed district in consultation with the municipality. In reviewing the request, the commissioner shall inform the commissioners of economic and community development and tourist development of the pending request.

(4) If the commissioner, with approval by the commissioner of economic and community development, determines that the special allocation of state sales tax, as authorized by § 7-40-106, is reasonably anticipated to attain the goals set forth in § 7-40-103(7) based on applicable objective professional standards, then the commissioner shall approve the request and certify the district. Upon certification of the district, the commissioner shall provide prompt notice of the certification to the commissioner of economic and community development, the commissioner of tourist development, and the requesting municipal governing body.

(b) Upon certification of the district, state sales and use taxes shall be apportioned and distributed to the municipality as provided in this chapter.

(c) The apportionment and distribution of state sales and use taxes shall commence with the first fiscal year after the certification of the district for which the municipality has submitted a cost certification for that fiscal year as provided in this subsection (c). The base tax revenues shall be determined in accordance with the definition in § 7-40-103, irrespective of whether a municipality filed a cost certification for the first year for which the municipality was entitled to receive an allocation of tax revenue. Within thirty (30) days after the end of each fiscal year for which a municipality is requesting an allocation of sales and use tax revenues, the municipality may submit to the commissioner a summary of the cost of the economic development project through the end of that fiscal year with supporting documentation certified by the chief financial officer of the municipality. The certification by the chief financial officer of the municipality shall be deemed an official act of that officer on behalf of the municipality, and that officer shall not be personally liable for any incorrect information in the certification. The commissioner shall review the cost certification to confirm that state sales and use taxes, in the amount determined by the commissioner, should be apportioned and distributed to the municipality pursuant to this chapter and shall notify the department of economic and community development of such.

(d) The certified district shall be dissolved following the expiration of thirty (30) years, or upon the date on which the cost of the project has been fully paid, whichever is sooner; provided, that the thirty-year period in this subsection (d) shall be concurrent with the time limitation established in § 7-40-106.

(e) Not later than June 30, 2019, any municipality in which a district has been certified may exclude, on a one-time basis, from the district for the remainder of the term that the district is certified, any property or properties initially included in the certified district by designating the exclusion of the

property or properties by resolution of the legislative body of the municipality. A certified copy of the resolution shall be filed with the commissioner not later than sixty (60) days after adoption by the legislative body of the municipality. Upon exclusion, and except as provided in this subsection (e), the excluded property or properties shall be treated as if the property or properties were never included in the district for all purposes, including the calculation of base tax revenues, commencing with the fiscal year ending June 30, 2019, and the municipality shall not be entitled to receive any future incremental increases in tax revenues relating to businesses located on the excluded property or properties. Notwithstanding this subsection (e), the adoption of the resolution shall not affect any prior distribution relating to the district for any fiscal year ending on or before June 30, 2018.

(f) For purposes of determining whether a business is located in the district, the commissioner shall rely on the address of the business as shown on the business's tax return.

(g) If a municipality elects to remove properties from the certified district by designating the exclusion of the property or properties pursuant to subsection (e) other adjacent property or properties may become eligible to be included in the certified district in a total acreage amount less than or equal to the total acreage of those properties excluded. Inclusion of such property or properties must be designated by resolution of the legislative body of the municipality. A certified copy of the resolution shall be filed with the commissioner not later than sixty (60) days after adoption by the legislative body of the municipality. Upon inclusion, and except as provided in subsection (e) the included property or properties shall be treated as if the property or properties were included in the district for all purposes, including the calculation of base tax revenues, commencing with the fiscal year ending June 30, 2018, and the municipality shall be entitled to receive future incremental increases in tax revenues relating to businesses located on the included property or properties. Notwithstanding this subsection (g), the adoption of the resolution shall not affect any prior distribution relating to the district for any fiscal year ending on or before June 30, 2018.

7-40-106. Conditions for and duration of apportionment and distribution of state sales and use taxes.

(a) Notwithstanding the allocations provided for in § 67-6-103(a), if a municipality or industrial development corporation finances, constructs, leases, equips, renovates, assists, incents, or acquires an extraordinary retail or tourism facility or a project in a certified district, then seventy-five percent (75%) of state sales and use tax collected in the district in excess of base tax revenues shall be apportioned and distributed to the municipality in an amount equal to the incremental increase in state sales and use taxes derived from the sale of goods, products, and services within the district in excess of base tax revenues.

(b) Apportionment and distribution of such taxes shall continue for a period of thirty (30) years, or until the date on which all the cost of the economic development project, including any principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial development corporation related to the development of the project have been fully paid, whichever is sooner. Following the expiration of this thirty-year period,

or upon the date on which such cost has been fully paid, whichever is sooner, all amounts that would have otherwise been distributed to the municipality or retained in lieu of distribution shall be allocated as provided elsewhere without regard to this chapter.

(c) Tax revenue distributed to the municipality pursuant to this chapter shall be for the exclusive use of the municipality or the industrial development corporation formally designated by the municipality for payment of the cost of the economic development project, including principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial development corporation related to the development of the project. The apportionment and payment shall be made by the department of revenue to the municipality within ninety (90) days of the end of each fiscal year for which the municipality is entitled to receive an allocation and payment pursuant to this chapter. If the commissioner determines that any cost included in a certification of a municipality submitted pursuant to § 7-40-104(c) is not a qualifying cost within the meaning of § 7-40-103, the commissioner shall promptly give notice of the determination to the municipality. Upon receipt of the notice, the municipality may contest the determination following the procedures set forth in § 4-5-223. If the commissioner determines that any cost is not a qualifying cost, the commissioner may not recoup, on such basis, any payment that has already been made by the commissioner to the municipality or industrial development board. However, the amount of the unqualified cost shall offset and reduce the amount of any future distribution of tax revenues to the municipality or industrial development board. The chief financial officer of the municipality may rely on certifications and documentation of third parties in connection with making any certification under this chapter unless the chief financial officer has actual knowledge that the certification or documentation by the third party is false. Once the commissioner has approved any cost, whether incurred by the municipality or, as a result of delegation, by an industrial development board or any developer acting by agreement with the municipality or industrial development board, such approval shall be deemed conclusive that the district is being developed for an extraordinary retail or tourism facility as described in § 7-40-103(7).

7-40-111. Exercise all powers and rights — Standing — Remedies.

Notwithstanding any law to the contrary, the municipality and the industrial development corporation are authorized to exercise all power and rights, express or implied, granted by this chapter. Any developer of a project within a district who has entered into an agreement with a municipality or industrial development board related to such project or any proposed project or district has standing, with respect to such project and district, to seek remedies to enforce this chapter or any rights created by this chapter, including specifically the remedy to appeal the commissioner's determination that a cost is not a qualifying cost under § 7-40-106(c).

7-40-113. Application of chapter to certain costs.

The benefits of this chapter shall apply to any cost incurred in connection with developing a project as a whole, even if:

- (1) The cost includes development of portions of the district or business in the district, or both, that do not, by themselves, generate state sales and use

tax revenue, visitors, or sufficient state sales and use tax revenue, by themselves, to meet the standards set forth in § 7-40-103(7), including a retail store, or series of stores, or other attractions or facilities open to the public, that do not or will not, by themselves, generate state sales and use tax revenue; or

(2) The sequence of development results in development of businesses or attractions, or both, to attract or stimulate interest in the project by retail businesses or retail tourism facilities to be developed at a later time.

7-41-101. Short title.

This chapter shall be known and may be cited as the “Regional Retail Tourism Development District Act.”

7-41-102. Purpose of chapter.

The purpose of this chapter is to increase tourism and the competitiveness of this state with bordering states by empowering local governments to encourage the development of extraordinary retail or tourism facilities, including shopping, recreational, and other activities.

7-41-103. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Base tax revenues” means the revenues generated from the collection of state sales and use taxes from all businesses within the applicable regional retail tourism development district as of the end of the fiscal year of this state immediately prior to the year in which the municipality or industrial development corporation is entitled to receive an allocation of tax revenue pursuant to this chapter. In no event shall the apportionment pursuant to this chapter be adjusted to reduce the economic benefit to the municipality as is provided in this chapter;

(2) “Best interests of the state” means a determination by the commissioner of revenue, with approval by the commissioner of economic and community development, that:

(A) The economic development project or extraordinary retail or tourism facility within the district is a result of the special allocation and distribution of state sales tax provided for in § 7-41-106; and

(B) The district is a result of the project or extraordinary retail or tourism facility;

(3) “Commissioner” means the commissioner of revenue;

(4) “Cost” means all costs of an economic development project in a district incurred by the municipality or industrial development corporation, including, but not limited to, the cost of developing the district, as well as acquisition, design, construction, renovation, improvement, demolition, and relocation of any improvements; the cost of labor, materials, and equipment; the cost of all lands, property rights, easements, and franchises required; financing charges, interest, and debt service prior to, during, or after construction; the cost of issuing bonds in connection with any financing; cost of plans and specifications, services, and estimates of costs and of revenue; cost of direct or indirect assistance, including funds for location assistance; cost of site preparation, engineering, accounting, and legal services; all

expenses necessary or incident to determining the feasibility or practicability of such acquisitions or construction; salaries, overhead, and other costs of the municipality or industrial development corporation allocated to the project, including new development or subsequent phases of the project to be completed within the thirty-year period established in § 7-41-104(d), and administrative, legal, and engineering expenses and such other expenses as may be necessary or incident to such acquisition, design, construction, renovation, demolition, relocation, or the financing thereof, including the costs incurred by a municipality or industrial development corporation relating to the development of an extraordinary retail or tourism facility within two (2) years prior to the municipality's designation of the proposed regional retail tourism development district for such project;

(5) "Economic development project" or "project" means the provision of direct or indirect financial assistance, including funds for location assistance, to an extraordinary retail or tourism facility and other retail or tourism facilities developed to accompany the extraordinary retail or tourism facility in a regional retail tourism development district by a municipality or an industrial development corporation, including, but not limited to, the purchase, lease, grant, construction, reconstruction, improvement, or other acquisition or conveyance of land, buildings, equipment, or other infrastructure; public works improvements essential to the location of an extraordinary retail or tourism facility and other retail or tourism facilities developed to accompany the extraordinary retail or tourism facility; payments for professional services contracts necessary for a municipality or industrial development corporation to implement a plan or project; the provision of direct loans or grants for land, buildings, or infrastructure; and loan guarantees securing the cost of land, buildings, location assistance, or infrastructure in an amount not to exceed the revenue that may be derived from the sales and use tax transferred to the municipality as provided in this chapter. It also includes development of parks, plazas, sidewalks, access ways, roads, drives, bridges, ramps, landscaping, signage, parking lots, parking structures, and other public improvements constructed or renovated by the municipality or an industrial development corporation in connection with the project in the district and any related infrastructure and utility improvements for public or private peripheral development for the district that is constructed, renovated, or installed by the municipality or an industrial development corporation;

(6) "Extraordinary retail or tourism facility" means a single store, series of stores, or other public tourism facility or facilities located within a regional retail tourism development district, and includes retail or other public tourism facilities that are reasonably anticipated to draw at least one million (1,000,000) visitors a year upon completion. The extraordinary retail or tourism facility must reasonably be expected to require a capital investment of at least twenty million dollars (\$20,000,000), including land, buildings, and site preparation costs, and must reasonably be anticipated to remit at least two million dollars (\$2,000,000) in state sales and use tax annually when completed;

(7) "Industrial development corporation" means a corporation created or authorized by a municipality or county pursuant to chapter 53 of this title;

(8) "Municipal governing body" means the city council, city commission, or board of mayor and aldermen of a city;

(9) “Municipality” means an incorporated city located in this state; and

(10) “Regional retail tourism development district” or “district” means one (1) or more parcels of real property located within a county having a population of not less than one hundred twenty-two thousand nine hundred (122,900) nor more than one hundred twenty-three thousand (123,000), according to the 2010 federal census or any subsequent census, and which some boundary of the district is no more than one-half (1/2) mile from an existing federally designated interstate exit, is no more than twenty (20) miles from the state border of two (2) neighboring states as measured by straight line, is no larger than a total area of nine hundred fifty (950) acres, and is designated as a regional retail tourism development district by a municipal ordinance and certified by the commissioner.

7-41-104. Requirements to receive apportionment of state sales and use taxes — Certification of district — Apportionment and distribution of state sales and use taxes to municipality.

(a) To receive the apportionment of state sales and use taxes as provided in this chapter, the following requirements must be met:

(1) A municipal legislative body must adopt an ordinance designating the boundaries of the regional retail tourism development district. A municipality shall not contain more than one (1) such district;

(2) The municipality must file a certified copy of the ordinance with the commissioner along with a request for certification of the district. The request must include a master development plan for the proposed district containing such information as may be reasonably required by the commissioner;

(3) The commissioner shall promptly review the request to confirm that the proposed boundaries of the proposed regional retail tourism development district do not exceed the maximum size set forth in this chapter. If the commissioner determines that the boundaries of the proposed regional retail tourism development district exceed the area allowed by this chapter, then the commissioner may adjust or reduce the boundaries of the proposed district in consultation with the municipality. In reviewing the request, the commissioner shall inform the commissioners of economic and community development and tourist development of the pending request; and

(4) If the commissioner, with approval by the commissioner of economic and community development, determines that the special allocation of state sales tax, as authorized by § 7-41-106, is in the best interests of the state, then the commissioner shall approve the request and certify the district. Upon certification of the district, the commissioner shall provide prompt notice of the certification to the commissioner of economic and community development, the commissioner of tourist development, and the requesting municipal governing body.

(b) Upon certification of the district, state sales and use taxes must be apportioned and distributed to the municipality as provided in this chapter.

(c) The apportionment and distribution of state sales and use taxes to the municipality as provided in this chapter must commence at the beginning of the fiscal year after the certification of the district. Prior to the beginning of that fiscal year, and on an annual basis thereafter, the municipality shall submit to the commissioner a summary of the cost of the economic develop-

ment project with supporting documentation, certified by the chief financial officer of the municipality, which must include the cost of any new phases or additional development of the project to be completed within the thirty-year time limitation established in subsection (d). The commissioner shall review the cost certification to determine whether state sales and use taxes, in the amount determined by the commissioner, must be apportioned and distributed to the municipality pursuant to this chapter and shall notify the department of economic and community development of the determination.

(d) Additional development or new phases of a project within a certified district shall not be initiated after the expiration of twenty (20) years following certification of the district. The certified district must be dissolved following the expiration of thirty (30) years, or upon the date on which the cost of the project has been fully paid, whichever occurs first. The thirty-year period in this subsection (d) runs concurrently with the time limitation established in § 7-41-106.

7-41-105. Annual adjustments to sales and use tax revenues collected in district.

The department of revenue shall make annual adjustments to the sales and use tax revenues collected in the district within ninety (90) days of the end of each fiscal year. The annual adjustments are effective immediately upon notification of the adjustment from the department of revenue to the municipality or industrial development corporation.

7-41-106. Apportionment and distribution if extraordinary retail or tourism facility or project in certified district.

(a) Notwithstanding the allocations provided for in § 67-6-103(a), if a municipality or industrial development corporation finances, constructs, leases, equips, renovates, assists, incents, or acquires an extraordinary retail or tourism facility or a project in a certified district, then seventy-five percent (75%) of state sales and use tax collected in the district in excess of base tax revenues must be apportioned and distributed to the municipality in an amount equal to the incremental increase in state sales and use taxes derived from the sale of goods, products, and services within the district in excess of base tax revenues.

(b) Apportionment and distribution according to subsection (a) must continue for a period of thirty (30) years, or until the date on which the entire cost of the economic development project, including any principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial development corporation related to the development of the project, are fully paid, whichever occurs first. Following the expiration of this thirty-year period, or upon the date on which such cost has been fully paid, whichever is sooner, all amounts that would have otherwise been distributed to the municipality or retained in lieu of distribution shall be allocated as provided elsewhere without regard to this chapter.

(c) Tax revenue distributed to the municipality pursuant to this chapter is for the exclusive use of the municipality or the industrial development corporation formally designated by the municipality for payment of the cost of the economic development project, including principal and interest on indebtedness, including refunding indebtedness of the municipality or industrial

development corporation related to the development of the project. The department of revenue shall apportion the payment to the municipality within ninety (90) days of the end of each fiscal year for which the municipality is entitled to receive an allocation and payment pursuant to this chapter.

7-41-107. Delegation to industrial development corporation.

An eligible municipality in which a district is located is authorized to delegate to any industrial development corporation within the county or counties where the municipality is located the authority to carry out all or part of the project, to issue revenue bonds to finance a project within a district, and to incur cost for the project. The municipality may enter into an agreement with an industrial development corporation in which the municipality agrees to promptly pay to the industrial development corporation the tax revenues received pursuant to this chapter sufficient to service the repayment of the bonds and costs incurred by the industrial development corporation for the project. Upon receipt, that portion of tax revenues must be held in trust by the municipality for the benefit of the industrial development corporation.

7-41-108. Bonds, notes, refunding bonds, or other indebtedness relative to cost of economic development project.

Any bonds, notes, refunding bonds, or other indebtedness relative to the cost of an economic development project must not be issued for a term longer than thirty (30) years, and the municipality or industrial development corporation may pledge all proceeds or taxes it receives pursuant to this chapter to the payment of principal and interest on the bonds, notes, or other indebtedness. The thirty-year period in this section runs concurrently with the time limitation established in § 7-41-106.

7-41-109. Debt amortization schedule for bonds.

Prior to the issuance of any bonds to finance the cost of an economic development project that will be repaid in whole or part from apportionments under this chapter, the municipality or industrial development corporation issuing the bonds shall submit a proposed debt amortization schedule for the bonds to the commissioner for approval. The schedule must show the anticipated contribution to be made to the annual debt service for the bonds from the apportionment of sales and use taxes pursuant to this chapter and all other sources. After the date of issuance of the bonds, the municipality shall continue to contribute each year thereafter until the bonds are retired or a sufficient sinking fund has been established for their retirement.

7-41-110. Limitations, conditions, or provision of incentives or financial support in district.

A municipality may, including through an industrial development corporation, limit, condition, or provide incentives or financial support in the district as it deems appropriate, including the requirement that the benefited property owners participate in the repayment of indebtedness due to district formation in an amount equal to twenty-five percent (25%) of the property tax for the real property owned by the property owner in the district each year, for the length of time as the municipality receives an appropriation of sales and use tax in

accordance with this chapter and the property owner provides a lien on the property for such repayment. A municipality shall not provide financial assistance for the location or relocation of existing retailers located within a fifteen-mile radius of the district, if the existing location is within this state, unless the sales floor space is increased by thirty-five percent (35%) or more from that of the existing store. A municipality may allocate some or all of the incremental increase in property tax revenue directly as a result of the development within the district to pay for costs associated with the district formation, economic development projects, or extraordinary retail or tourism projects within the district.

7-41-111. Exercise of powers and rights granted by chapter.

Notwithstanding any law to the contrary, the municipality and the industrial development corporation may exercise all power and rights, express or implied, granted by this chapter.

7-51-201. Law enforcement officers and firefighters — Compensation for injury or death — Certain disabilities presumed to have been suffered in course of employment.

(a)(1) Whenever the state of Tennessee, or any municipal corporation or other political subdivision of the state that maintains a regular law enforcement department manned by regular and full-time employees and has established or hereafter establishes any form of compensation to be paid to such law enforcement officers for any condition or impairment of health that results in loss of life or personal injury in the line of duty or course of employment, there shall be and there is hereby established a presumption that any impairment of health of such law enforcement officers caused by hypertension or heart disease resulting in hospitalization, medical treatment or any disability, shall be presumed, unless the contrary be shown by competent medical evidence, to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health that results in death shall be presumed, unless the contrary be shown by competent medical evidence, to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of such officer's position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in line of duty. Such law enforcement officer shall have successfully passed a physical examination prior to such claimed disability, or upon entering governmental employment and such examination fails to reveal any evidence of the condition of hypertension or heart disease.

(2) For purposes of this subsection (a), "law enforcement officer" includes correctional security job classification employees of the departments of correction and children's services, and full-time county law enforcement officers, including county deputy sheriffs employed in correctional security positions. If such inclusion of full-time county law enforcement officers, including county deputy sheriffs employed in correctional security positions, in the definition of "law enforcement officer" mandates increased liability to a county under the Tennessee consolidated retirement system, or a local retirement system, then such full-time county law enforcement officers, including county deputy sheriffs employed in correctional security positions

in such county, shall not be included in such definition for purposes of the Tennessee consolidated retirement system or a local retirement system unless the county legislative body of such county advises the retirement division of its desire to apply such definition to such personnel.

(b)(1) Whenever the state of Tennessee, or any municipal corporation or other political subdivision of the state maintains a regular fire department manned by regular and full-time employees and has established or hereafter establishes any form of compensation, other than workers' compensation, to be paid to such firefighters for any condition or impairment of health that results in loss of life or personal injury in the line of duty or course of employment, there shall be and there is hereby established a presumption that any impairment of health of such firefighters caused by disease of the lungs, hypertension or heart disease resulting in hospitalization, medical treatment or any disability, shall be presumed, unless the contrary is shown by competent medical evidence, to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health which results in death shall be presumed, unless the contrary is shown by competent medical evidence, to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of such firefighter's position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in the line of duty. Such firefighter shall have successfully passed a physical examination prior to such claimed disability, or upon entering upon governmental employment, and such examination fails to reveal any evidence of the condition or disease of the lungs, hypertension or heart disease.

(2) It is hereby declared to be the legislative intent that this section is to be remedial in character and to permit and require any municipal corporation maintaining any permanent fire department to be covered by its provisions.

(c)(1) Whenever any county having a population greater than four hundred thousand (400,000), according to the 1980 federal census or any subsequent federal census, or any municipal corporation within such county, maintains within its fire department, and has established or hereafter establishes any form of compensation, other than workers' compensation, to be paid to a person employed by such division as an emergency medical technician or emergency medical technician advanced or paramedic, for any condition or impairment of health that shall result in loss of life or personal injury in the line of duty or course of employment, there shall be and there is hereby established a presumption that any impairment of health of such person caused by hypertension or heart disease resulting in hospitalization, medical treatment or any disability shall be presumed, unless the contrary is shown by competent medical evidence, to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health which results in death shall be presumed, unless the contrary is shown by competent medical evidence, to be a loss of life in line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of the position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in the line of duty. Such person shall have successfully passed a physical examination prior to such claimed disability, or upon entering governmental employment, and such examination fails to reveal any evidence of the

condition of hypertension or heart disease.

(2) It is hereby declared to be the legislative intent that this section is to be remedial in character and to permit and require any such municipal corporation or political subdivision of the state maintaining such division to be covered by its provisions.

(d)(1) Whenever this state, any municipal corporation, or other political subdivision of the state that maintains a fire department has established or establishes any form of compensation to be paid to firefighters for any condition or impairment of health that results in loss of life or personal injury in the line of duty or course of employment, there is a presumption that any condition or impairment of health of firefighters caused by all forms of Non-Hodgkin's Lymphoma cancer, colon cancer, skin cancer, or multiple myeloma cancer resulting in hospitalization, medical treatment, or any disability, has arisen out of employment, unless the contrary is shown by competent medical evidence. Any such condition or impairment of health that results in death is presumed to be a loss of life in the line of duty, to have arisen out of employment, and to have been in the actual discharge of the duties of the firefighter's position, unless the contrary is shown by a physician board certified in oncology. Secondary employment or lifestyle habits may be considered when determining whether the presumption established in this subsection (d) applies.

(2)(A) Any firefighter employed by a fire department before July 1, 2019, and desiring to utilize the presumption established in this subsection (d), must obtain a physical medical examination before July 1, 2020, and the examination must include a cancer screening that fails to reveal any evidence of the cancers listed in this subsection (d). Any firefighter employed by a fire department on or after July 1, 2019, and desiring to utilize the presumption established in this subsection (d) must successfully pass a pre-employment physical medical examination, and the examination must include a cancer screening that fails to reveal any evidence of the cancers listed in this subsection (d).

(B) In order to be eligible to utilize the presumption established in this subsection (d), a firefighter shall obtain annual physical medical examinations that include cancer screenings for the specific types of cancer listed in this subsection (d).

(C) Any physical medical examination required by this subsection (d) shall be paid by the employer's health benefits plan at no cost to the employee.

(3) In order to be eligible to utilize the presumption established in this subsection (d), a firefighter must have been exposed to heat, smoke, and fumes, or carcinogenic, poisonous, toxic, or chemical substances, while performing the duties of a firefighter in the firefighter's capacity as an employee and must have completed five (5) or more consecutive years in service with an eligible fire department. A firefighter may utilize the presumption established in this subsection (d) for up to five (5) years after the firefighter's most recent date of exposure as contemplated herein.

(4) As used in this subsection (d):

(A) "Fire department" means a department recognized by the state fire marshal's office pursuant to the Fire Department Recognition Act, compiled in title 68, chapter 102, part 3, and manned by full-time, paid employees; and

(B) “Firefighter” means any full-time, paid employee of a fire department of the state or a political subdivision of the state.

(5) This subsection (d) does not affect a person’s rights under § 7-51-205 and does not limit any benefit in effect in the state.

7-51-210. Compensation for death of emergency responder in line of duty.

(a) For the purposes of this section, unless the context otherwise requires:

(1) “Emergency responder” means a firefighter, a volunteer rescue squad worker, or law enforcement officer;

(2) “Firefighter” means any regular or full-time employee of a fire department as defined in § 68-102-302, or any unpaid volunteer member of a municipal or nonprofit fire department who is registered and recognized by the state fire marshal and who is required to extinguish and control fires or fire-related incidents;

(3) “In the line of duty” means in the course of employment and in the actual discharge of the duties of the position;

(4) “Law enforcement officer” means the sheriff, sheriff’s deputies, or any police officer employed, commissioned, or appointed by this state, a municipality, or political subdivision of this state whose primary responsibility is the prevention and detection of crime and the apprehension of offenders; and

(5) “Volunteer rescue squad worker” means any person who is trained in emergency and rescue work and who performs such work without compensation in a unit that is equipped to address such situations.

(b) The estate of any emergency responder who is killed in the line of duty shall be entitled to receive a two-hundred-fifty-thousand-dollar annuity, with the estate receiving an annual installment of fifty thousand dollars (\$50,000) for five (5) years. The emergency responder must have been current in any required training and physical exams at the time the death occurred for the estate to receive the payment. Payment shall be made from the general fund after receipt by the department of finance and administration of a certified death certificate, letters testamentary or letters of administration for the estate of the deceased from a probate court, and an affidavit from the decedent’s employer or volunteer unit that the decedent was killed in the line of duty.

(c) A claim for payment of an annuity pursuant to this section must be filed with the department of finance and administration no later than three (3) years after the date of death of the decedent.

(d) A person’s estate is only entitled to receive one (1) two-hundred-fifty-thousand-dollar annuity, regardless of the person being in more than one (1) category of emergency responder.

(e) A denial of a claim made under this section by the estate of a law enforcement officer shall be subject to review by the Tennessee peace officer standards and training commission within ninety (90) days of the denial. The commission has the authority to review the claim and issue a final order which is binding upon this state. The commission shall cause copies of the final order to be delivered to the claimant’s estate and the department of finance and administration.

7-51-2001. Part definitions.

As used in this part, unless the context requires otherwise:

(1) “Auxiliary container” means a bag, cup, bottle, can, device, eating or drinking utensil or tool, or other packaging, whether reusable or single use, which is:

(A) Made of cloth, paper, plastic, including foamed or expanded plastic, cardboard, corrugated material, aluminum, glass, post-consumer recycled material, or similar material or substrates, including coated, laminated, or multilayer substrates; and

(B) Designed for transporting, consuming, or protecting merchandise, food, or a beverage to or from, or at, a food service, manufacturing, distribution or processing facility, or retail facility; and

(2) “Local government” means a county, municipality, or county with a metropolitan form of government.

7-51-2002. Prohibited regulation of auxiliary containers.

(a) A local government shall not adopt or enforce a resolution, ordinance, policy, or regulation that:

- (1) Regulates the use, disposition, or sale of an auxiliary container;
- (2) Prohibits or restricts an auxiliary container; or
- (3) Enacts a fee, charge, or tax on an auxiliary container.

(b) Subsection (a) must not be construed to restrict:

- (1) A curbside recycling program;
- (2) A designated residential or commercial recycling location;
- (3) A commercial recycling program;
- (4) The use of an auxiliary container on property owned by a local government; or
- (5) The regulation of auxiliary containers at an event, concert, or sports venue owned by a private or public entity or at an event managed by a local government.

7-52-103. Powers of municipalities.

(a) Every municipality has the power and is authorized to:

(1) Acquire, improve, operate and maintain within or without the corporate or county limits of such municipality, and within the corporate or county limits of any other municipality, with the consent of such other municipality, an electric plant and to provide electric service to any person, firm, public or private corporation, or to any other user or consumer of electric power and energy, and charge for the electric service;

(2) Acquire, improve or use jointly with any other municipality a transmission line or lines together with all necessary and appropriate facilities, equipment and appurtenances for the purpose of transmitting power and energy or connecting their respective electric plants with a wholesale source of supply and, to this end, such municipality may provide by contract for the method of holding title, for the allocation of responsibility for operation and maintenance and for the allocation of expenses and revenues;

(3) Accept grants, loans or other financial assistance from any federal agency, for or in aid of the acquisition or improvement of any electric plant;

(4) Contract debts for the acquisition or improvement of any electric plant, borrow money, and issue bonds and notes pursuant to the Local Government Public Obligations Act of 1986, compiled in title 9, chapter 21, to finance such acquisition or improvements;

(5) Assess, levy and collect unlimited ad valorem taxes on all property subject to taxation to pay such bonds, and the interest on the bonds;

(6) Acquire, hold and, subject to the applicable provisions of any bonds or contracts, dispose of any property, real or personal, tangible or intangible, or any right or interest in any such property in connection with any electric plant, and whether or not subject to mortgages, liens, charges or other encumbrances, but no municipality shall dispose of all or substantially all of its electric plant, except as provided in § 7-52-132;

(7) Make contracts and execute instruments containing such covenants, terms and conditions as in the discretion of the municipality may be necessary, proper or advisable for the purpose of obtaining loans from any source, or grants, loans or other financial assistance from any federal agency; make all other contracts and execute all other instruments as in the discretion of the municipality may be necessary, proper or advisable in or for the furtherance of the acquisition, improvement, operation and maintenance of any electric plant and the furnishing of electric service; and carry out and perform the covenants and terms and conditions of all such contracts and instruments;

(8) Enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations in connection with the acquisition, improvement, operation or maintenance of any electric plant and the furnishing of electric service; and

(9) Do all acts and things necessary or convenient to carry out the powers expressly given in this part.

(b) In addition to the powers listed in subsection (a), each municipality has the power and is authorized to promote economic and industrial development through participation both as a borrower and a lender in the rural economic development loan and grant program established and administered by the rural development administration or its successor.

(c) In addition to the authority granted under otherwise applicable law, each municipality operating an electric plant has the power and is authorized within its service area and on behalf of its municipality, acting through the authorization of the board or supervisory body having responsibility for the municipal electric plant, to contract to establish a joint venture or other business relationship with one (1) or more third parties to provide the services authorized by § 7-52-601; provided, that, with respect to cable services, at least one (1) such third party shall be a current franchise holder that has been providing services in any state, either itself or its predecessor or predecessors, for not less than three (3) years at the time of the establishment of the joint venture or other business relationship. Any such joint venture or other business relationship shall be subject to §§ 7-52-602 — 7-52-609.

(d) In addition to the authority granted under otherwise applicable law, each municipality operating an electric plant has the power and is authorized on behalf of its municipality, acting through the authorization of the board or supervisory body having responsibility for the municipal electric plant, to establish a joint venture or any other business relationship with one (1) or more third parties to provide related services, subject to §§ 7-52-402 — 7-52-407. No contract or agreement between a municipal electric system and one (1) or more third parties for the provision of related services that provides for the joint ownership or joint control of assets, the sharing of profits and losses, or the sharing of gross revenues shall become effective or enforceable

until the Tennessee public utility commission approves such contract or agreement on petition, and, after notice and opportunity to be heard, has been extended to interested parties. Notwithstanding § 65-4-101(6)(B) or any other provision of this code or of any private act, to the extent that any such joint venture or other business relationship provides related services, such joint venture or business relationship and every member of such joint venture or business relationship shall be subject to regulation by the Tennessee public utility commission in the same manner and to the same extent as other certified providers of telecommunications services, including, but not limited to, rules or orders governing anti-competitive practices, and shall be considered as and have the duties of a public utility, as defined in § 65-4-101, but only to the extent necessary to effect such regulation and only with respect to the provision of related services. This provision shall not apply to any related service or transaction that is not subject to regulation by the Tennessee public utility commission.

(e)(1) In addition to the authority granted under otherwise applicable law, a municipality operating an electric plant may, acting through the authorization of the board or supervisory body having responsibility for the municipal electric plant, accept and distribute excess receipts for bona fide economic development or community assistance purposes pursuant to programs approved by the board or supervisory body, which programs may include, but are not limited to, programs in which utility bills are rounded up to the next dollar when the amount of any excess receipt due to rounding is shown as a separate line on the utility bill.

(2) Excess receipts accepted by a municipal electric plant pursuant to programs authorized by subdivision (e)(1) are not considered revenue to the municipal electric plant or the municipality's other utility systems, and the municipality may only use the excess receipts for economic development or community assistance purposes.

(3)(A) A municipality that establishes a program authorized by subdivision (e)(1) on or after January 1, 2021, shall not enroll any customer into the program without the express consent of the customer.

(B) A customer who is enrolled in a program authorized by subdivision (e)(1) may opt out of the program by providing notice to the municipality of the customer's desire to cease participation in the program.

(C) Upon receiving an opt-out notice from a customer, the municipality shall remove the customer from enrollment in the program no later than the first day of the customer's next regular billing cycle that begins no fewer than thirty (30) days after the date of the customer's opt-out notice.

(4)(A) Any municipality that on June 3, 2019, utilizes a program authorized by subdivision (e)(1) and operates the program on an opt-out basis shall send a written notice to each municipal electric plant customer no later than November 1, 2020, that contains, but is not limited to, the following information:

(i) A statement that the municipality utilizes a program authorized by subdivision (e)(1), the program is operated on an opt-out basis, and a description of the program;

(ii) Notification that a customer whose bill is currently rounded up by the municipality has the right to opt out of participation in the program; and

(iii) Contact information for the municipality and instructions on how the customer may contact the municipality to opt out of participation in

the program.

(B) The written notice required by this subdivision (e)(4) may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the municipality.

(C) A municipality that on June 3, 2019, utilizes a program authorized by subdivision (e)(1) and operates the program on an opt-out basis that fails to send the notice required by this subdivision (e)(4) shall, on and after January 1, 2021, cease operating the program on an opt-out basis and shall not operate a program unless operated in compliance with subdivision (e)(3).

(D) For purposes of this subsection (e), “opt-out basis” means automatically enrolling customers in a program and requiring notice from the customer of a desire to be removed from the program in order to cease participation in the program.

(5) Any municipality that utilizes a program authorized by subdivision (e)(1) and that maintains a website that is accessible by the general public shall publish in a conspicuous location on the website by November 1, 2020, and throughout the duration of the municipality’s utilization of the program, the following information:

(A) A statement that the municipal utility system utilizes a program authorized by subdivision (e)(1) and a description of the program;

(B) Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program; and

(C) Contact information for the utility and instructions on how the customer may contact the utility to opt into or out of participation in the program.

(f) For purposes of this section, “related services” means those services authorized by § 7-52-401.

(g) In addition to the authority granted under otherwise applicable law, each municipal electric system and each other governmental utility system established by private act that operates an electric plant have the power and are authorized, acting through the authorization of the board or supervisory body having responsibility for the municipal electric system or governmental utility system, to enter into an employment contract for a term not to exceed five (5) years with the superintendent, general manager or chief executive officer of the electric plant. Any such contract must be terminable for cause, as more specifically defined in the contract, and the term of the contract may be renewed. If the board or supervisory body also has responsibility for other utility systems, and if the superintendent, general manager or chief executive officer is also the superintendent, general manager or chief executive officer for such other systems, then the contract may address all rights and responsibilities of such superintendent, general manager or chief executive officer. This subsection (g) shall only apply where, by private act or general law, the board or supervisory body having responsibility for the municipal electric system or governmental utility system is directly responsible for making decisions regarding the employment of the superintendent, general manager or chief executive officer of the electric plant.

(h) In addition to authority granted under otherwise applicable law, the utility of a municipality providing electric service operating pursuant to this part or other applicable law has the power to assist its utility customers in installing or maintaining fixtures, devices, appliances, apparatus, and equip-

ment of all kinds and character and, in connection therewith, to purchase, acquire, lease, sell, distribute, incentivize, insure, make loans, provide service contracts, enter into agreements, contract with third parties, and repair such fixtures, devices, appliances, apparatus, and equipment and sell, assign, transfer, endorse, pledge, and otherwise dispose of notes or other evidences of indebtedness. Transactions with customers may provide for periodic payments to be added to customer monthly service billing statements. The utility may terminate utility service upon non-payment of these transactions in accordance with policies adopted by the utility's governing board.

7-53-101. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Applicable ad valorem taxes" means any ad valorem taxes that, but for ownership of a project by a corporation, would have been due and payable pursuant to §§ 67-5-102 and 67-5-103;

(2) "Bonds" means bonds, notes, interim certificates or other obligations of a corporation issued pursuant to this chapter;

(3) "Contracting party" or "other contracting party" means any party to a sale contract or loan agreement except the corporation;

(4) "Corporation" means any corporation organized pursuant to this chapter;

(5) "Eligible headquarters facility" means a facility, located in a county with a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census, that houses an international, national or regional headquarters facility of an entity that agrees, at a minimum, to make payments to the municipality in lieu of any special assessments or other fees or charges that would be levied on the project pursuant to chapter 84 of this title if the project were privately owned;

(6) "Enterprise" means the manufacturing, processing, assembling, commercial, service and agricultural operations to be carried on with or otherwise using the facilities of the project;

(7) "Governing body" means the board or body in which the general legislative powers of the municipality are vested;

(8) "Lease" includes a lease containing an option to purchase the project for a nominal sum upon payment in full, or provision for payment in full, of all bonds issued in connection with the project and all interest on the bonds and all other expenses in connection with the project, and a lease containing an option to purchase the project at any time, as provided in the lease, upon payment of the purchase price, which shall be sufficient to pay all bonds issued in connection with the project and all interest on the bonds and all other expenses incurred in connection with the project, but which payment may be made in the form of one (1) or more notes, debentures, bonds or other secured or unsecured debt obligations of the lessee providing for timely payments, including, without limitation, interest on the obligations sufficient for such purposes and delivered to the corporation or to the trustee under the indenture pursuant to which the bonds were issued;

(9) "Loan agreement" means an agreement providing for a corporation to loan the proceeds derived from the issuance of bonds pursuant to this chapter to one (1) or more contracting parties to be used to pay the cost of one

(1) or more projects and providing for the repayment of such loan by the other contracting party or parties, and that may provide for such loans to be secured or evidenced by one (1) or more notes, debentures, bonds or other secured or unsecured debt obligations of the contracting party or parties, delivered to the corporation or to the trustee under the indenture pursuant to which the bonds were issued;

(10) "Mayor," as used in § 7-53-314, means the chief executive officer of any county having a metropolitan form of government and having a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, with respect to which a corporation has been organized;

(11) "Municipality" means any county or incorporated city or town in this state with respect to which a corporation may be organized and in which it is contemplated the corporation will function;

(12) "Payments in lieu of taxes" means any amount negotiated separately from rent in lieu of applicable ad valorem taxes;

(13) "Pollution" means the placing of any noxious or deleterious substances, including noise, in any air or water of or adjacent to the state of Tennessee affecting the physical, chemical or biological properties of any air or waters of or adjacent to the state of Tennessee in a manner and to an extent that renders or is likely to render such air or waters inimical or harmful to the public health, safety or welfare, or to animal, bird or aquatic life, or to the use of such air or waters for domestic, industrial, agricultural or recreational purposes;

(14) "Pollution control facilities" means any equipment, structure or facility or any land and any building, structure, facility or other improvement on the land, or any combination thereof, and all real and personal property deemed necessary therewith having to do with or the end purpose of which is the control, abatement or prevention of water, air, noise or general environmental pollution, including, but not limited to, any air pollution control facility, noise abatement facility, water management facility, waste water collecting systems, waste water treatment works or solid waste disposal facility;

(15) "Project" means all or any part of, or any interest in:

(A) Any land and building, including office building, any facility or other improvement on the land, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, that shall be suitable for the following or by any combination of two (2) or more thereof:

(i) Any industry for the manufacturing, processing or assembling of any agricultural, mining, or manufactured products;

(ii) Any commercial enterprise in selling, providing, or handling any financial service or in storing, warehousing, distributing or selling any products of agriculture, mining or industry;

(iii) Any undertaking involving the use of ship canals, ports or port facilities, off-street parking facilities, docks or dock facilities, or harbor facilities, or of railroads, monorail or tramway, railway terminals, or railway belt lines and switches;

(iv) All or any part of any office building or buildings for the use of such tenant or tenants as may be determined or authorized by the board of directors of the corporation, including, without limitation, any indus-

trial, commercial, financial or service enterprise, any nonprofit domestic corporation or enterprise now or hereafter organized, whose purpose is the promotion, support and encouragement of either agriculture or commerce in this state or whose purpose is the promoting of the health, welfare and safety of the citizens of the state;

(v) Any office or other public building for any city, county or metropolitan government of the state of Tennessee or any board of public utilities, or any public authority, agency, or instrumentality of the state of Tennessee or of the United States;

(vi) Any buildings, structures and facilities, including the site of the buildings, structure and facilities, machinery, equipment and furnishings, suitable for use by any city, county or metropolitan government of the state of Tennessee or any for profit corporation operating buildings, structures and facilities, including the site of the buildings, structures and facilities, machinery, equipment and furnishings, under contract with any city, county or metropolitan government of the state of Tennessee as health care or related facilities, including, without limitation, hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, and all buildings, structures and facilities deemed necessary or useful in connection therewith;

(vii) Any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including, but not limited to, classroom, laboratory, housing, administrative, physical education, and medical research and treatment facilities;

(viii) Any planetarium or museum;

(ix) Any facilities for any recreation or amusement park, public park or theme park suitable for use by any private corporation or any governmental unit of the state of Tennessee, including the state of Tennessee;

(x) Any multifamily housing facilities to be occupied by persons of low or moderate income, elderly, or handicapped persons as may be determined by the board of directors, which determination shall be conclusive;

(xi)(a) Any undertaking involving the operation or management of the Job Training Partnership Act program pursuant to 29 U.S.C. § 1501 et seq. [repealed]. It is the legislative intent to include such project in order to increase employment opportunities pursuant to § 7-53-102;

(b) Subdivision (15)(A)(xi)(a) shall not apply in any county having a population, according to the 1980 federal census or any subsequent federal census of:

<u>not less than</u>	<u>nor more than</u>
14,940	15,000
49,400	49,500
56,000	56,100
74,500	74,600
85,725	85,825
477,000	500,000

(xii) Any land, buildings, structures and facilities, including the site of the building, structure and facilities, machinery, equipment and furnishings that constitute “recovery zone property” as in § 1400U-3(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 1400U-3(c)); and

(xiii) Facilities or expenditures paid or incurred for “qualified conservation purposes” as defined in § 54D of the Internal Revenue Code of 1986 (26 U.S.C. § 54D), in connection with the issuance of “qualified energy conservation bonds”, as defined in § 54D of the Internal Revenue Code of 1986 (26 U.S.C. § 54D);

(B)(i) In any municipality in which there has been created a central business improvement district pursuant to chapter 84 of this title, “project” also means any hotel, motel or apartment building located within an area designated by appropriate resolution or ordinance by the municipality as the center-city area; and, in any municipality, “project” also means any hotel, including any conference or convention center facilities related to the hotel, or motel within an area that could provide substantial sources of tax revenues or economic activity to the municipality;

(ii) In counties with a metropolitan form of government, “project” also means any hotel, motel or apartment building located on property owned by or leased from an airport authority created pursuant to title 42, chapter 3 or 4, but this subdivision (15)(B)(ii) shall not apply in any county having a population of not less than one hundred twenty thousand (120,000) nor more than one hundred thirty thousand (130,000), according to the 1970 federal census or any subsequent federal census;

(iii) In the county seat of any county having a population of not less than nineteen thousand six hundred fifty (19,650) or more than nineteen thousand seven hundred fifty (19,750), according to the 1980 federal census or any subsequent federal census, “project” also means the purchase, acquisition, leasing, construction and equipping of hotels, motels, and apartments in any area within the county seat of such county;

(iv) In any municipality in which there is a closed or substantially downsized facility, including, but not limited to, a facility formerly operated by the United States department of defense or department of energy, “project” also means the purchase, acquisition, leasing, construction and equipping of hotels, motels, conference centers and apartments, on or adjacent to the site of the closed or substantially downsized federal facility;

(v) In any municipality with a population of at least fifteen thousand (15,000) or more, according to the 2010 federal census or any subsequent federal census, located partly within a county having a metropolitan form of government and partly within an adjacent county, “project” also means the purchase, acquisition, leasing, construction, and equipping of hotels and motels within any such municipality’s corporate boundaries;

(C) Pollution control facilities, coal gasification facilities, and energy production facilities, as defined in § 7-54-101, and any buildings, structures and facilities, including the site of any buildings, structures and facilities, machinery, equipment and furnishings, for the production of electricity, that shall be suitable for use by any person including any public

utility whether publicly or privately owned, board of public utilities, public authority, municipality, or agency or instrumentality of the state of Tennessee or the United States, or by any combination of two (2) or more. The board of directors of the corporation shall find, with respect to any office building or any hotel, motel or apartment building financed under this chapter that the acquisition and leasing or sale of such building, or the financing of the building by loan agreement, as the case may be, will develop trade and commerce in and adjacent to the municipality, will contribute to the general welfare and will alleviate conditions of unemployment, and with regard to any apartment building that the construction of an apartment building will increase the quantity of housing available in the municipality, and such finding by the board of directors shall be conclusive;

(D) Land or buildings or other improvements to land or buildings, or any combination thereof, and any breeding stock and machinery or equipment necessary or suitable for use in farming, ranching, the production of agricultural commodities, including the products of agriculture and silviculture, or necessary and suitable for treating, processing, storing or transporting raw agricultural commodities;

(E) A tourism attraction involving an aggregate investment of public and private funds in excess of seventy-five million dollars (\$75,000,000) that is designed to attract tourists to the state, including a cultural or historical site, a museum or visitors center, a recreation or entertainment facility, and all related hotel or hotels, convention center facilities, administrative facilities and offices, mixed use facilities, restaurants and other tourism amenities constructed or acquired as a part of the attraction;

(F) In any municipality in which there has been created a central business improvement district pursuant to chapter 84 of this title, "project" also means any public infrastructure, public improvement, public facilities, or combination thereof, located within an area designated by appropriate resolution or ordinance by the municipality as the center city area, including without limitation, any alleys, auditoriums, bridges, culverts, curbs, drainage systems, including storm water sewers and drains, garages, parks, parking facilities, parkways, playgrounds, plazas, public art, roads, sewers, sidewalks, stadiums, streets, street equipment, tunnels, and viaducts;

(G) Any economic development project as defined in § 7-40-103;

(H) Land or buildings or other improvements to land or buildings, or any combination thereof, and any machinery or equipment necessary or suitable for use in the production of biofuels, biopower, biochemicals, biomaterials, synthetic fuels and/or petroleum products, or necessary and suitable for treating, processing, storing or transporting raw materials used in such production or in storing and transporting the finished product, intermediate products or co-products; and

(I) Any economic development project as defined in the Regional Retail Tourism Development District Act, compiled in chapter 41 of this title;

(16) "Rent" means a charge for use of property, including the lessee's obligation to repay debt issued or assumed by a lessor, or rent implied by the lessee's stated obligation to construct improvements;

(17) "Retail business" means a retail establishment providing general

retail sales or services to consumers;

(18) "Revenues" of a project, or derived from a project, include payments under a lease or sale contract and repayments under a loan agreement, or under notes, debentures, bonds and other secured or unsecured debt obligations of a lessee or contracting party delivered as provided in this chapter;

(19) "Sale contract" means a contract providing for the sale of one (1) or more projects to one (1) or more contracting parties and includes a contract providing for payment of the purchase price in one (1) or more installments. If the sale contract permits title to the project to pass to the other contracting party or parties prior to payment in full of the entire purchase price, it shall also provide for the other contracting party or parties to deliver to the corporation or to the trustee under the indenture pursuant to which the bonds were issued one (1) or more notes, debentures, bonds or other secured or unsecured debt obligations of such contracting party or parties providing for timely payments, including, without limitation, interest on the obligations for the balance of the purchase price at or prior to the passage of such title; and

(20) "Waiver" means an agreement that does not require the payment of any payments in lieu of taxes for a period of time.

7-53-312. Preparation and submission of economic impact plan for counties other than those with a metropolitan government and a population exceeding 500,000.

(a) The corporation is authorized to prepare and submit to the municipality for approval an economic impact plan in the manner described in this section.

(b) An economic impact plan shall be a written document and shall specifically identify the area to be included in the plan. The area to be included in the plan must be located in the municipality and must also include an industrial park within the meaning of § 13-16-102, or a project that is either owned by the corporation or with respect to which the corporation has loaned or will loan funds or has otherwise provided or will provide financial assistance. In addition to such industrial park or project, the area that is the subject of the economic impact plan may also include such other properties that the corporation determines will be directly improved or benefited due to the undertaking of the industrial park or project. The economic impact plan shall:

(1) Identify the boundaries of the area subject to the plan;

(2) Identify the industrial park or project located within the area subject to the plan;

(3) Discuss the expected benefits to the municipality from the development of the area subject to the plan, including anticipated tax receipts and jobs created; and

(4) Provide that the property taxes imposed on the property, including the personal property, located within the area subject to the plan will be distributable in the manner described in subsection (c) for a period of time specified in the plan.

(c) Upon the approval by the municipality of an economic impact plan with respect to an area, all property taxes levied upon property located within such area by any taxing agency after the effective date of the plan shall be divided as follows:

(1) That portion of the taxes that is equal to the amount of taxes, if any, that were payable with respect to the property for the year prior to the date the economic impact plan was approved, the "base tax amount", by the municipality shall be allocated to and, when collected, shall be paid to the respective taxing agencies as taxes levied by such taxing agencies on all other property are paid; provided, that in any year in which the taxes on any property are less than the base tax amount, there shall be allocated and paid to the respective taxing agencies only those taxes actually imposed; and

(2) Any excess of taxes over the base tax amount shall be allocated to and, when collected, shall be paid into a separate fund of the corporation established to hold such payments until applied for the purposes described in subsection (h).

(d) Notwithstanding subsection (a) to the contrary, the corporation may prepare, and the municipality may approve, an economic impact plan that allocates an amount greater than the base tax amount to the taxing agencies.

(e) An economic impact plan shall not provide for an allocation of taxes to the corporation for a period in excess of thirty (30) years.

(f) The governing body of a municipality may approve an economic impact plan by resolution, notwithstanding any local charter provision or other provision to the contrary. If the area subject to an economic impact plan is located within the corporate limits of a city or town, the taxes that would otherwise be payable to the city, town or county that is not the municipality that created the corporation shall not be paid to the corporation unless such city, town or county has also approved the economic impact plan.

(g) Before the corporation submits an economic impact plan for approval to the municipality that created such corporation or to any other city or county, the corporation shall hold a public hearing relating to the proposed plan after publishing a notice of such public hearing in a newspaper of general circulation in the municipality at least two (2) weeks prior to the date of such public hearing. Such notice shall include the time, place and purpose of the public hearing, and notice of how a map of the area subject to the plan can be viewed by the public.

(h) All taxes allocated to the corporation pursuant to this section shall only be applied by the corporation to pay expenses of the board in furtherance of promoting economic development in the municipality, to pay the cost of projects, or to pay debt service on bonds or other obligations issued by the corporation to pay the cost of the projects. The corporation is authorized to pledge any or all amounts received by the corporation pursuant to this section to the payment of such bonds or other obligations.

(i) After the approval by a municipality of an economic impact plan, the clerk or other recording official of such municipality shall transmit to the appropriate assessor of property and to each taxing agency to be affected, a copy of the description of all property within the area subject to the economic impact plan and a copy of the resolution approving that plan. If the plan is approved by any taxing agency other than the municipality, the clerk or other recording official of that taxing agency shall also provide a copy of the resolution approving the plan to such assessor of property and taxing agencies. A copy of the plan and any resolutions approving the plan shall be filed with the comptroller of the treasury, and an annual statement of amounts allocated in excess of the base tax amount shall be filed with the state board of equalization.

(j) Notwithstanding anything to the contrary in this section, taxes levied

upon property within an economic impact area by any taxing agency for the payment of principal of and interest on all bonds, loans, or other indebtedness of such taxing agency, and taxes levied by or for the benefit of the state, shall not be subject to allocation as provided in subsection (c), but may still be levied against such property and, when collected, paid to such taxing agency as taxes levied by such taxing agency on all other property are paid and collected.

(k) This section shall not apply to any county having a metropolitan form of government and having a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census. With respect to a county with a metropolitan form of government and having a population in excess of five hundred thousand (500,000), § 7-53-314 shall apply.

(l) In the event of any conflict between this section and the Uniformity in Tax Increment Financing Act of 2012, compiled in title 9, chapter 23, title 9, chapter 23 shall control.

7-53-314. Preparation and submission of economic impact plan for counties with a metropolitan government and a population exceeding 500,000.

(a) The corporation is authorized to prepare and submit to the governing body of the municipality for approval an economic impact plan in the manner described in this section.

(b) An economic impact plan shall be a written document and shall specifically identify the area to be included in the plan. The area to be included in the plan shall be located in the municipality and shall also include an industrial park within the meaning of § 13-16-102, or a project that is either owned by the corporation or with respect to which the corporation has loaned or will loan funds or has otherwise provided or will provide financial assistance. In addition to the industrial park or project, the area that is the subject of the economic impact plan may also include other properties that the corporation determines will be directly improved or benefited due to the undertaking of the industrial park or project. The economic impact plan shall:

- (1) Identify the boundaries of the area subject to the plan;
- (2) Identify the industrial park or project located within the area subject to the plan;
- (3) Discuss the expected benefits to the municipality from the development of the area subject to the plan, including anticipated tax receipts and jobs created; and
- (4) Provide that the property taxes imposed on the property, including the personal property, located within the area subject to the plan will be distributable in the manner described in subsection (c) for a period of time specified in the plan.

(c) Upon the approval of the governing body of the municipality of an economic impact plan with respect to an area, all property taxes levied upon property located within the area by any taxing agency after the effective date of the plan shall be divided as follows:

- (1) That portion of the taxes that is equal to the amount of taxes, if any, that were payable with respect to the property for the year prior to the date the economic impact plan was approved, the base tax amount, by the municipality shall be allocated to and, when collected, shall be paid to the

respective taxing agencies as taxes levied by the taxing agencies on all other property are paid; provided, that, in any year in which the taxes on any property are less than the base tax amount, there shall be allocated and paid to the respective taxing agencies only those taxes actually imposed; and

(2) Any excess of taxes over the base tax amount shall be allocated to and, when collected, shall be paid into a separate fund of the corporation established to hold the payments until applied for the purposes described in subsection (h).

(d) Notwithstanding subsection (c) to the contrary, an economic impact plan may be approved that allocates an amount greater than the base tax amount to the taxing agencies.

(e) An economic impact plan shall not provide for an allocation of taxes to the corporation for a period in excess of thirty (30) years.

(f) The governing body of a municipality may approve an economic impact plan by resolution, notwithstanding any local charter provision or other provision to the contrary. Prior to approval by the governing body of the municipality, the economic impact plan shall be submitted to the mayor of the municipality. If the area subject to an economic impact plan is located within the corporate limits of a city or town, the taxes that would otherwise be payable to the city, town or county that is not the municipality that created the corporation shall not be paid to the corporation unless the city, town or county has also approved the economic impact plan.

(g) Before the corporation submits an economic impact plan for approval to the governing body of the municipality that created the corporation or to any other city or county, the corporation shall hold a public hearing relating to the proposed plan after publishing a notice of the public hearing in a newspaper of general circulation in the municipality at least two (2) weeks prior to the date of the public hearing. The notice shall include the time, place and purpose of the public hearing, and notice of how a map of the area subject to the plan can be viewed by the public.

(h) All taxes allocated to the corporation pursuant to this section shall only be applied by the corporation to pay expenses of the board in furtherance of promoting economic development in the municipality, to pay the cost of projects, or to pay debt service on bonds or other obligations issued by the corporation to pay the cost of the projects. The corporation is authorized to pledge any or all amounts received by the corporation pursuant to this section to the payment of the bonds or other obligations.

(i) After the approval by the governing body of a municipality of an economic impact plan, the clerk or other recording official of the municipality shall transmit to the appropriate assessors of property and to each taxing agency to be affected, a copy of the description of all property within the area subject to the economic impact plan and a copy of the resolution approving that plan. If the plan is approved by any taxing agency other than the municipality, the clerk or other recording official of that taxing agency shall also provide a copy of the resolution approving the plan to the assessors of property and taxing agencies.

(j) Notwithstanding any other provision of this section to the contrary, taxes levied upon property within an economic impact area by any taxing agency for the payment of principal of and interest on all bonds, loans, or other indebtedness of the taxing agency, and taxes levied by or for the benefit of this state, shall not be subject to allocation as provided in subsection (c), but may

still be levied against the property and, when collected, paid to the taxing agency as taxes levied by the taxing agency on all other property are paid and collected.

(k) This section shall only apply to any county having a metropolitan form of government and having a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census.

(l) In the event of any conflict between this section and the Uniformity in Tax Increment Financing Act of 2012, compiled in title 9, chapter 23, title 9, chapter 23 shall control.

7-53-316. Redevelopment of brownfield sites in economically disadvantaged areas.

(a) It is the intent of the general assembly to encourage the redevelopment of brownfield sites in economically disadvantaged areas within this state. In addition to the authorization provided in § 7-53-312, a corporation located in a municipality in which an urban brownfield redevelopment project is located is also authorized to prepare and submit to the municipality for approval an economic impact plan with respect to an urban brownfield redevelopment project in the manner provided in this section. Except to the extent modified under this section, § 7-53-312 shall apply to an economic impact plan for an urban brownfield redevelopment project.

(b) An economic impact plan submitted for approval under this section shall provide that the property taxes imposed on the property, including the personal property located within the area subject to the plan, the sales taxes imposed upon sales within the area subject to the plan, the sales taxes imposed upon construction and related development or redevelopment activity in the area subject to the plan, or any combination and amount of such property and sales taxes, will be distributable in the manner described in subsection (c) and § 7-53-312(c), as applicable, and used for the purposes permitted by subsection (e).

(c) In addition to the allocation of property taxes provided in § 7-53-312, an economic impact plan may further provide that the non-school portion of the local sales tax increment shall be allocated to and, when received, shall be paid into a separate fund of the corporation established to hold such payments, along with any other amounts received by the corporation pursuant to this section or § 7-53-312, until applied for the purposes described in subsection (e) pursuant to the economic impact plan. In calculating the non-school portion of the local sales tax increment, the plan may also include any new local sales taxes received from construction or related redevelopment activity occurring within the area subject to the plan. Upon the approval by a municipality of an economic impact plan containing all or any portion of the permitted excess local sales taxes, the local sales taxes received by the municipality shall be divided and allocated as so provided.

(d) Notwithstanding § 7-53-312 to the contrary, the corporation may prepare, and the municipality may approve, an economic impact plan that allocates an amount greater than the base tax amount and the base sales tax amount to the taxing agencies.

(e) All sales and property taxes allocated for an economic impact plan approved pursuant to this section shall only be applied by the corporation to

pay expenses of the corporation in furtherance of economic development in the municipality, to pay or reimburse qualified costs or to pay debt service on bonds or other obligations issued by the corporation to finance any of the foregoing. The corporation shall cease to receive allocations described in this section and § 7-53-312(c) upon the maturity of the original bond or obligation used to finance the project, whose maximum amount of debt maturity must be no longer than thirty (30) years.

(f) As used in this section, unless the context otherwise requires:

(1) “Base sales tax amount” means the revenues received by the municipality from local sales taxes, excluding that portion of the local sales tax dedicated for school purposes, from the area subject to the plan for the fiscal year of the municipality immediately prior to the year in which the plan is adopted. “Local sales taxes” means taxes received by the municipality pursuant to the 1963 Local Option Revenue Act, compiled in title 67, chapter 6, part 7, excluding that portion of the local sales taxes dedicated for school purposes;

(2) “Brownfield site” means a parcel or adjacent or related parcels of real property that is currently, or at any time since January 1, 2000, has been the subject of an investigation or remediation as a brownfield project under a voluntary agreement or consent order pursuant to § 68-212-224;

(3) “Non-school portion of the local sales tax increment” means any excess of local sales taxes, after deducting the portion that is statutorily designated for school purposes, over the base sales tax amount that is received by each municipality that has approved the economic impact plan from the specified sales and development activity in the area that is subject to the plan;

(4) “Qualified costs” include:

(A) Costs for all roads, streets, sidewalks, access ways, ramps, bridges, landscaping, signage, utility facilities, grading, drainage, parks, plazas, greenways, public parking facilities, public recreational facilities, public educational facilities, public meeting facilities, and similar improvements that are necessary for or otherwise useful for the urban redevelopment project or for the redevelopment of the area subject to the economic impact plan;

(B) All administrative, architectural, legal, engineering, and other expenses as may be necessary or incidental to the development and implementation of the economic impact plan or the financing of expenses under this section; and

(C) Costs that are directly related to the investigation, remediation, or mitigation of a brownfield project located in an urban redevelopment project as required by a voluntary agreement or consent order pursuant to § 68-212-224;

(5) “Qualified opportunity zone” means census tracts identified as qualified opportunity zones as certified under the federal Tax Cuts and Jobs Act of 2017 (Public Law 115-97);

(6) “Redevelopment zone” means:

(A) An area in this state designated as of January 1, 2009, as a renewal community by the federal department of housing and urban development;

(B) An area in this state designated as of January 1, 2009, as a low-income community for purposes of the federal new markets tax credits program; or

(C) A qualified opportunity zone in this state;

(7) "Urban brownfield redevelopment project":

(A) Means the development or redevelopment, in one (1) or more phases as specified in the economic impact plan, of all or any portion of a parcel or parcels of contiguous, adjacent, or related properties. The parcel or parcels must be located in a redevelopment zone and must contain:

(i) At least one (1) brownfield site; or

(ii) Contain a site of at least ten (10) acres that has remained vacant or substantially unoccupied for at least five (5) years and, at any time within twenty (20) years prior to June 1, 2011, included manufacturing, industrial, distribution, or retail facilities, in total, containing at least one million square feet (1,000,000 sq. ft.); and

(B) Includes any project as defined in § 7-53-101 and any publicly or privately owned or operated retail, commercial, industrial, or mixed-use facility, including a visitor center, recreation, or entertainment facility and all related hotels, convention center facilities, administrative facilities, offices, restaurants, and other amenities constructed or acquired as part of the project.

(g) An urban brownfield redevelopment project shall be a project for purposes of § 7-53-101 and for all other purposes under this chapter.

7-82-302. Power to operate utilities.

(a)(1) Any district heretofore or hereafter created under authority of this chapter is empowered to conduct, operate and maintain a system or systems for the furnishing of water, sewer, sewage disposal, natural gas, natural gas storage and related facilities, liquefied natural gas storage and related facilities, liquid propane gas storage and related facilities and other gaseous storage and related facilities, artificial gas, police, fire protection, garbage collection and garbage disposal, street lighting, parks and recreational facilities, transit facilities, transmission of industrial chemicals by pipeline to or from industries or plants located within the boundary of the district, transmission of natural gas by pipeline from one (1) or more wells or other sources of natural gas, or from one (1) or more collection points of natural gas located within or without the district, but in no event more than five (5) miles beyond the boundary of the district to one (1) or more utilities, "utilities" to include natural gas transportation pipelines, industries, or plants located within or without the district, but in no event more than one hundred (100) miles beyond the boundary of the district, community antenna television service, except for community antenna television service in counties having a population of more than sixty thousand (60,000) but less than sixty thousand one hundred (60,100), according to the 1960 federal census or any subsequent federal census, or two (2) or more of such systems, and to carry out such purpose it shall have the power and authority to acquire, construct, reconstruct, improve, better, extend, consolidate, maintain and operate such system or systems, within or without the district, and to purchase from, and furnish, deliver and sell to any municipality, the state, any public institution and the public, generally, any of the services authorized by this chapter.

(2) Powers relating to garbage disposal shall include the power of one (1) or more utility districts, acting individually or jointly, to engage in the conversion of garbage into steam power. In connection with the construction, financing, operation or maintenance of a facility for converting garbage into

steam power, a utility district shall have the same power and authority as a municipality has under § 7-54-103(d) in connection with energy production facilities, and shall comply with the requirements set out in § 7-54-110, it being the intent of the general assembly to further the energy and environmental objectives of Acts 1983, chapter 226 and title 68, chapter 211.

(3) Powers relating to natural gas shall include the power to own and operate natural gas vehicle fueling stations; provided, that no utility district is authorized to franchise the operation of any such natural gas vehicle fueling station to another entity; provided, further, that subdivision (a)(1)(B) shall not prohibit nor in any way be construed to prohibit any other person, firm or corporation from owning and operating a natural gas vehicle fueling station within the area embraced by the district.

(4) Powers relating to natural gas include the power to sell any appliance or heating system, or set of appliances, that have a natural gas or propane gas component, and to facilitate those sales by installment payment plans and financing to customers. Incentives plans that include financing to home builders and contractors are also authorized. Transactions with customers may provide for periodic payments for appliances and heating to be added to customer monthly service billing statements. Natural gas providers may terminate utility service upon non-payment of these transactions in accordance with policies adopted by the utility's governing board.

(5) Powers relating to natural gas include the power, together with all powers incidental to that power or necessary for the performance of that power, acting by resolution of its governing body to purchase natural gas by contract or other agreement from a public corporation that is created under the authority of a contiguous state and that is similar to an energy acquisition corporation, as defined in § 7-39-102. A utility district has the power to enter into a contract or arrangement, including contracts to take or pay for any gas or gas substitutes, with such a public corporation created under the authority of a contiguous state. The contract or arrangement must contain the terms, covenants, representations, warranties, provisions, and duration as the governing body of the utility district determines.

(6) Powers relating to water, sewer, and natural gas services include the power for utility districts to enter into agreements with companies to provide water, sewer, or natural gas leak protection bill coverage, insurance, or service agreements for customers and to offer their customers water line, sewer line, or natural gas line damage protection coverage, insurance, or service agreements for customer-owned water, sewer, or natural gas lines. Utility districts may include the costs for the coverage, insurance, or service agreements on the monthly utility bills of their customers. As used in this subdivision (6), "utility districts" includes any utility district created pursuant to this chapter or any public or private act and any water or sewer authority created by any public or private act.

(b) With respect to the conduct and operation of a police protection system, nothing contained in this chapter shall be construed as meaning or intending any encroachment upon the police powers of the sheriff of any county in this state, but shall only empower the district to conduct and operate such police protection system when it is enabled to do so through legal arrangements with the sheriff of the county, and other constituted authorities, in a manner consistent with all provisions of the Constitution of Tennessee. The inclusion of the power of conducting and operating a police protection system as one of the

purposes for which a district may be created shall not in anywise affect the validity of this section, the general assembly hereby expressly declaring its purpose to enact the remainder of this section without the provision contained in this section authorizing the conduct and operation of a police protection system, if the inclusion of such provision should be held to be invalid.

(c) "Transit facilities" means all real and personal property needed to provide public passenger transportation by means of trolley coach, bus, motor coach, or any combination of trolley coach, bus, and motorcoach, including terminal, maintenance and storage facilities.

(d) Community antenna television service shall be limited to all practices permitted by rules and regulations promulgated from time to time by the federal communications commission. This provision shall not apply to counties having populations over six hundred thousand (600,000), according to the 1970 federal census or any subsequent federal census. Such community antenna television service shall include the right to acquire and hold such real and personal property as may be needed to accomplish this subsection (d).

(e)(1) Districts created on or after July 1, 1967, shall be empowered to furnish only those services stated in the order creating the district. Districts incorporated before July 1, 1967, shall be authorized to furnish only the services being furnished on that date, or that shall be furnished by facilities to be constructed from the proceeds of bonds issued not later than July 1, 1968. Supplemental petitions for authority to furnish other services contained in this section may be addressed to the county mayor, who shall give notice and hold hearings on such petitions in the same manner, on the same issues, and under the same conditions as for original incorporation.

(2) A supplemental petition shall be filed with the utility management review board simultaneously with the filing of the petition with the county mayor or county mayors but is not subject to approval or disapproval by the utility management review board as set forth in §§ 7-82-201(a) and 7-82-202(a). In the order granting a supplemental petition, the county mayor or mayors may exclude territory within the district's boundaries that is already receiving the service sought to be furnished by the district from the grant of authority to the district to provide such service under this subsection (e).

(f)(1) A system or facilities for "the transmission of industrial chemicals by pipeline," as used in this section, means and includes facilities or a system used or useful in the transmission by pipeline of industrial chemicals and related commodities, in liquid, gaseous, or solid form, including raw materials, processed products, or by-products, to or from plants or industries located within the boundary of the district, on an individual basis, or in company with other plants, and to or from docks, terminals or tank farms located within or without the boundary of the district, but within the same county. Such system or facilities include, but are not limited to, the pipelines, docks, terminals, tank farms, compressor stations, storage and temperature treatment facilities, rights-of-way, and together with all real and personal property and equipment appurtenant to, or useful in connection with, such facilities.

(2) Before any district shall be authorized to conduct, operate or maintain such system or facilities for transmission of industrial chemicals by pipeline, as provided in this section, the board of commissioners of the district, whether previously installed in such office or nominated only, shall submit a petition signed in their own names to the county mayor in which the order

approving the creation of the district was or shall be entered, whereupon the county mayor shall, upon notice published, as provided by § 7-82-202, and public hearing, determine whether or not the project so proposed shall promote industry and develop trade to provide against low employment, and enter an order so finding.

(3) On the issue of whether or not industry, trade and employment shall be so promoted and developed, the county mayor shall take into consideration the plants proposed to be served by the facilities for transmission of industrial chemicals by pipeline, but no project so proposed to be undertaken shall be found not to promote and develop industry, trade and employment for either of the following reasons:

(A) That the project shall provide service for a single plant; or

(B) That the project shall serve to maintain existing industry and employment rather than encourage new industry and additional employment.

(4) Any party in interest, including any subscriber to existing services of the district, shall have the right of appeal from the order as provided by § 7-82-204, but no consent to the undertaking of such district services by any number of existing subscribers shall be required, notwithstanding § 7-82-303.

(g) Incorporated cities and towns having a population of five thousand (5,000) or more shall have the prior right as respects utility districts to extend water, sewer or other utilities in any territory within five (5) miles of their corporate limits; where an incorporated city or town has a population of less than five thousand (5,000), the limit shall be three (3) miles; provided, that this provision shall not apply within the boundaries of a utility district or to facilities heretofore extended by a utility district beyond its boundaries; and provided, further, that a utility district may extend water, sewer or other utility facilities into such an area through agreement with the city or town concerned. A city or town shall lose its prior right under the following conditions:

(1) Where an agreement cannot be reached, the utility district, by a resolution setting out the area to be served and the type of utility, shall notify the city or town of its intention to serve the area;

(2) After receipt of such notice, the city or town shall have sixty (60) days in which to adopt an appropriate ordinance or resolution determining to serve the area within a specified time. The utility district may, within ten (10) days, appeal to the county mayor of the county in which the major part of the land area is located if it considers the time so determined is too long, whereupon the county mayor after hearing both parties, shall determine a reasonable time for the city or town to provide the services, and further appeal may be taken by either party as provided in § 7-82-204; and

(3) Upon failure of the city or town to provide the services within the time so determined, the utility district shall be authorized to serve any part of the area not already served by the city or town.

(h)(1) A system or facilities for "the transmission of natural gas by pipeline," as used in this section, means and includes facilities or a system used or useful in the transmission by pipeline of natural gas from one (1) or more wells or other sources of natural gas or from one (1) or more collection points of natural gas located within or without the district, but in no event more than five (5) miles beyond the boundary of the district, to one (1) or more utilities, plants or industries located within or without the district, but in no

event more than one hundred (100) miles distant from the boundary of the district; provided, that a portion of the system or facilities shall be located within the boundary of the district. Such system or facilities shall include, but not be limited to, pipelines, collection facilities, terminal facilities, rights-of-way and all real and personal property, including machinery and equipment, appurtenant to, or useful in connection with, such system or facilities.

(2) No district shall be authorized to conduct, operate or maintain such system or facilities for transmission of natural gas by pipeline, as provided in this section, unless the board of commissioners of the district, whether previously installed in such office or nominated only, shall submit a petition signed in their own names to the county mayor in which the order approving the creation of the district was or shall be entered, and the county mayor shall, upon notice published as provided by § 7-82-202 and public hearing, determine either that the project so proposed shall promote commerce, preserve the natural resources, or aid in the prevention of environmental pollution, and enter an order so finding.

(3) On the issue of whether or not such purpose or purposes shall be so promoted, preserved or aided, the county mayor shall take into consideration the utilities, plants or industries proposed to be served by the facilities for transmission of natural gas by pipeline, but no project so proposed to be undertaken shall be found not to promote commerce, preserve the natural resources, or aid in the prevention of environmental pollution for the reason that the project shall provide service for a single utility, plant or industry.

(4) Any party in interest, including any subscriber to existing services of the district, shall have the right of appeal from the order as provided by § 7-82-204, but no consent to the undertaking of such district services by any number of existing subscribers shall be required, notwithstanding § 7-82-303.

(i) Section 7-82-501, authorizing the issuance of revenue bonds for the purpose of constructing, acquiring, reconstructing, improving, bettering or extending any facility or system authorized by this chapter, is hereby made applicable to any district undertaking to exercise the power conferred by this section to conduct, operate and maintain a system or facilities for the transmission of industrial chemicals or natural gas by pipeline.

(j) Any district providing propane gas service on April 15, 1998, is empowered to provide such service within the county or counties in which it is providing service on that date without any further proceedings before or approvals of any county mayor, the utility management review board or any other person or agency; provided, that the authorization contained in this subsection (j) shall not preclude any other person, firm or corporation, public or private, from furnishing propane gas service within the area served by the district. Any such utility district is further empowered to sell or dispose of its propane gas service operation, in whole or in part.

7-82-304. Powers in carrying out purposes.

- (a) Any district created pursuant to this chapter has the power to:
- (1) Sue and be sued;
 - (2) Have a seal;

(3) Acquire by purchase, gift, devise, lease or exercise of the power of eminent domain or other mode of acquisition, hold and dispose of real and personal property of every kind within or without the district, whether or not subject to mortgage or any other liens;

(4) Make and enter into contracts, conveyances, mortgages, deeds of trust, bonds or leases;

(5) Incur debts, borrow money, issue negotiable bonds and provide for the rights of holders of such bonds;

(6) Fix, maintain, collect and revise rates and charges for any service;

(7) Pledge all or any part of its revenues;

(8) Make such covenants in connection with the issuance of bonds, or secure the payment of bonds, that a private business corporation can make under the general laws of the state, notwithstanding that such covenants may operate as limitations on the exercise of any power granted by this chapter;

(9) Use any right-of-way, easement or other similar property right necessary or convenient in connection with the acquisition, improvement, operation or maintenance of a utility, held by the state or any political subdivision of the state; provided, that the governing body of such political subdivision shall consent to such use;

(10) Issue, by resolution adopted by the governing body in accordance with the requirements of this chapter, interest-bearing bond anticipation notes for all purposes for which bonds can be legally authorized and issued by such district. Such notes shall be secured by the proceeds from the sale of the bonds in anticipation of which such notes are issued and additionally secured by a lien upon the revenues of the district on a parity with the bonds in anticipation of which such notes are issued. In no event shall the amount of outstanding bond anticipation notes exceed the principal amount of the bonds to be issued by the district. The notes shall mature not later than three (3) years from their date of issuance or upon delivery of the bonds in anticipation of which such notes were issued, whichever is earlier, and shall bear interest at such rate or rates as shall be provided in the resolution authorizing the notes. The notes shall be executed in the name of the district by the proper officials authorized to execute the notes, together with the seal of the district attached to the notes, and all such notes shall be sold for not less than par and accrued interest; the proceeds arising from the sale of such notes shall be paid to the proper official to be disbursed by such official as provided by the resolution authorizing the issuance of the notes. Included within the term "bond anticipation notes" shall be interim certificates or other temporary obligations that may be issued by the district to the purchaser of such bonds upon the terms and conditions provided in this section. Whenever any district shall issue bond anticipation notes or interim certificates pursuant to this section, neither the principal of nor the interest on such notes or certificates shall be taxed by the state or by any county, or by any municipality in this state. The authority granted in this section to issue bond anticipation notes shall also authorize the issuance of grant anticipation notes, to be secured by the grant in anticipation of which such notes are issued, with all provisions of this subdivision (a)(10) being applicable to such grant anticipation notes;

(11) Act jointly with one (1) or more other utility districts, municipalities, or counties of the state to exercise jointly any of the powers granted by this

chapter, contract with such entities as to the manner of exercise of each entity's internal powers, such as the determination of rates, tariffs, rules and regulations, and jointly contract with the state, the United States, or any agency of either such government; and

(12)(A) Provide funding to chambers of commerce and economic and community organizations pursuant to a resolution adopted by the governing body in accordance with the requirements of this chapter;

(B) The authority to provide funding granted under subdivision (a)(12)(A) applies only to natural gas utility districts that serve customers in counties with the following populations, according to the 1990 federal census or any subsequent federal census:

<u>not less than</u>	<u>nor more than</u>
16,300	16,650
29,100	29,400
33,010	33,500
35,075	35,200
44,500	45,000
51,000	51,300
68,100	68,400

(b)(1) In addition to the authority granted under otherwise applicable law, a utility district created under this chapter, or any private act of the general assembly, upon the adoption of a resolution by its board of commissioners, may accept and distribute excess receipts for bona fide charitable purposes pursuant to programs approved by the board of commissioners, which programs may include, but are not limited to, programs in which utility bills are rounded up to the next dollar when the amount of any excess receipt due to rounding is shown as a separate line on the utility bill.

(2) Excess receipts accepted by a utility district pursuant to programs authorized by subdivision (b)(1) are not considered revenue to the utility district, and the utility district may only use the excess receipts for charitable purposes.

(3) For purposes of this subsection (b):

(A) "Charitable purpose" means a purpose that provides relief to the poor or underprivileged, advances education or science, addresses community deterioration, provides community assistance, assists in economic development, provides for the erection of public buildings, monuments, or works, assists in historic preservation, or promotes social welfare through nonprofit or governmental organizations designed to accomplish any of the purposes set forth in this subdivision (b)(3). This section prohibits discrimination by a utility district in the distribution of excess receipts for bona fide charitable purposes to organizations whose mission is to assist persons regardless of their race, color, creed, religion, national origin, gender, disability, or age; and

(B) "Opt-out basis" means automatically enrolling customers in a program and requiring notice from the customer of a desire to be removed from the program in order to cease participation in the program.

(4)(A) A utility district that establishes a program authorized by subdivision (b)(1) on or after January 1, 2021, shall not enroll any customer into the program without the express consent of the customer.

(B) A customer who is enrolled in a program authorized by subdivision (b)(1) may opt out of the program by providing notice to the utility district of the customer's desire to cease participation in the program.

(C) Upon receiving an opt-out notice from a customer, the utility district shall remove the customer from enrollment in the program no later than the first day of the customer's next regular billing cycle that begins no fewer than thirty (30) days after the date of the customer's opt-out notice. (5)(A) Any utility district that on June 3, 2019, utilizes a program authorized by subdivision (b)(1) and operates the program on an opt-out basis shall send a written notice to each utility district customer no later than November 1, 2020, that contains, but is not limited to, the following information:

(i) A statement that the utility district utilizes a program authorized by subdivision (b)(1), the program is operated on an opt-out basis, and a description of the program;

(ii) Notification that a customer whose bill is currently rounded up by the utility district has the right to opt out of participation in the program; and

(iii) Contact information for the utility district and instructions on how the customer may contact the utility district to opt out of participation in the program.

(B) The written notice required by this subdivision (b)(5) may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the utility district.

(C) A utility district that on June 3, 2019, utilizes a program authorized by subdivision (b)(1) and operates the program on an opt-out basis that fails to send the notice required by this subdivision (b)(5) shall, on and after January 1, 2021, cease operating the program on an opt-out basis and shall not operate a program unless operated in compliance with subdivision (b)(4).

(6) Any utility district that utilizes a program authorized by subdivision (b)(1) and that maintains a website that is accessible by the general public shall publish in a conspicuous location on the website by November 1, 2020, and throughout the duration of the utility district's utilization of the program, the following information:

(A) A statement that the utility district utilizes a program authorized by subdivision (b)(1) and a description of the program;

(B) Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program; and

(C) Contact information for the utility and instructions on how the customer may contact the utility to opt into or out of participation in the program.

7-88-106. Apportionment and distribution of incremental increases due to public use facility.

(a)(1) If a municipality or public authority has financed, constructed, leased, equipped, renovated or acquired a qualified public use facility within a tourism development zone, then state and local sales and use taxes shall be apportioned and distributed to the municipality in an amount equal to the incremental increase in state and local sales and use tax revenue derived

from the sale of goods, products and services within the tourism development zone in excess of base tax revenues, excluding any increase in the state rate for sales and use tax; provided, however, that, with respect to any facility that elects to qualify as a qualified public use facility under § 7-88-103(7)(A)(ii) or (7)(A)(iii), only the portion of the incremental increase in the local sales and use tax revenue as is designated by resolution of the municipality shall be so apportioned and distributed under this section, unless the municipality designates by resolution a lesser time period for the apportionment and distribution of the revenues; and in the event one (1) or more other local taxes are authorized for use within the tourist development zone, then the portion of the additional taxes as are designated by resolution of the municipality shall be similarly apportioned and distributed. For any facility that elects to qualify as a qualified public use facility under § 7-88-103(7)(A)(ii) or (7)(A)(iii), the portion of the incremental increase in the local sales and use tax revenue that is statutorily designated for local schools may not be apportioned and distributed for such a qualified public use facility. For any facility that elects to qualify as a qualified public use facility and is located in any county having a population of not less than seventy-one thousand one hundred (71,100) nor more than seventy-one thousand two hundred (71,200), according to the 2000 federal census or any subsequent federal census, any revenue derived from an increase in the local sales and use tax rate occurring on or after January 1, 2009, may not be apportioned and distributed for such a qualified public use facility and instead shall be apportioned and distributed exclusively as provided in § 67-6-712(a); provided, however, that this sentence shall not apply to any increase in the local sales and use tax enacted after July 1, 2010. Apportionment and distribution of such taxes shall continue, until the earlier of:

(A) The date on which the cumulative amount apportioned and distributed to the municipality equals the cost of the qualified public use facility, plus any interest on indebtedness of the municipality or public authority related to such cost;

(B) The date on which the qualified public use facility ceases to be a qualified public use facility; or

(C) Thirty (30) years from the date it is reasonably anticipated that the facility will commence operations as a public use facility.

(2)(A) After the apportionment and distribution of state sales and use taxes pursuant to subdivision (a)(1) has ceased with respect to one (1) qualified public use facility that consisted of a hotel with at least five hundred (500) rooms and related retail, parking, and commercial uses, that was approved by the state building commission, on recommendation of the comptroller prior to December 31, 2018, or as such approval shall thereafter be amended by the state building commission, and that was placed in service no later than December 31, 2024, the apportionment and distribution of the incremental increase in the local sales and use tax revenue with respect to such qualified public use facility must continue until the earlier of:

(i) Thirty (30) years from the date it is reasonably anticipated that the facility will commence operations as a public use facility; or

(ii) The date the cumulative amount apportioned and distributed to the municipality under this subdivision (a)(2) with respect to such facility equals the indebtedness of the municipality or public authority, plus interest thereon, related to the cost of the public use facility

payable from such amount.

(B) This subdivision (a)(2) does not affect the apportionment and distribution pursuant to subdivision (a)(1) of any state sales and use taxes generated by such qualified public use facility hotel and related retail parking and commercial uses as described in subdivision (a)(2)(A).

(C) This subdivision (a)(2) does not affect the apportionment and distribution pursuant to subdivision (a)(1) of any local sales and use taxes generated by such qualified public use facility hotel and related retail parking and commercial uses as described in subdivision (a)(2)(A).

(b) Except as otherwise provided in subsection (c), tax revenue distributed to the municipality shall be for the exclusive use of the municipality or the public authority formally designated by the municipality, in accordance with the Local Government Public Obligations Act of 1986, compiled in title 9, chapter 21, the Public Building Authorities Act of 1971, compiled in title 12, chapter 10, or chapter 53 of this title for payment of the cost of the public use facility, including interest and debt service on any indebtedness related to the public use facility, or the lease payments with respect to any public use facility, and shall apply to only one (1) tourism development zone per municipality. The apportionment and payment shall be made by the department of revenue to the municipality within ninety (90) days of the end of each fiscal year for which the municipality is entitled to receive an allocation and payment pursuant to this chapter. Notwithstanding this subsection (b), a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, and a municipality in a county having a population of more than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, shall not be limited to one (1) tourism development zone eligible to receive a distribution of tax revenue, and such county and such municipality are not required to designate additional tourism development zones as a secondary tourism development zone to receive a distribution of tax revenue.

(c) If there has been designated within the municipality a secondary tourist development zone, then the incremental increase in state and local sales and use tax revenue derived from the sale of goods, products and services within the secondary tourist development zone in excess of base tax revenues, excluding any increase in the state rate for sales and use tax, shall be apportioned and distributed to the municipality for deposit in its general fund. Apportionment and distribution of the taxes shall continue until the earliest of:

- (1) The first date on which the indebtedness of the municipality or public authority related to the qualified public use facility located within the secondary tourist development zone has been paid in full;
- (2) The date on which the cumulative amount apportioned and distributed equals the cumulative amount of principal and interest on indebtedness of the municipality or public authority related to the qualified public use facility located within the secondary tourist development zone;
- (3) The date on which the qualified public use facility ceases to be a qualified public use facility; or
- (4) Thirty (30) years from the date it is reasonably anticipated that the facility will commence operations as a public use facility.

8-4-209. Investigation of allegation of felony involving private fund.

The comptroller of the treasury, in its discretion, may investigate an allegation of a felony that is classified as Class B or higher involving private funds if:

- (1) The investigation is requested by the attorney general and reporter or the district attorney general of a judicial district;
- (2) The investigation is in conjunction with an open investigation by the Tennessee bureau of investigation; and
- (3) The comptroller of the treasury deems an investigation to be in the public interest.

8-4-705. Annual report to general assembly on enforcement activities.

The small business advocate shall report annually to the commerce and labor committee of the senate and the commerce committee of the house of representatives regarding evaluating the enforcement activities of department and agency personnel, including a rating of the responsiveness to small business owners' concerns.

8-7-201. Salaries of criminal investigators and assistant district attorneys general.

(a)(1) All criminal investigators hired prior to July 1, 1994, shall be compensated according to the following schedule:

Entry level	\$34,128
after five (5) years	35,832
after ten (10) years	37,536
after fourteen (14) years	37,824
after sixteen (16) years	39,924
after eighteen (18) years	42,024
after twenty (20) years	44,124

(2) Investigators compensated in the salary schedule in subdivision (a)(1) shall be classified as simply criminal investigators until reaching the five-year level, senior criminal investigators after reaching the five-year level, and chief criminal investigators after reaching the ten-year level.

(3) On July 1, 1997, and each subsequent July 1, the salary levels for criminal investigators in subdivision (a)(1) shall be increased by such percentage amount as shall be fixed by the general assembly in the General Appropriations Act. For the purpose of budget preparation, it shall be presumed that such percentage amount shall be the same as that received by other state employees.

(4) Notwithstanding subdivisions (a)(1) and (2), if a district attorney general having a vacant criminal investigator position appoints a licensed attorney to that position and designates that person to serve as an assistant district attorney general, the appointee may, on the recommendation of the hiring district attorney general and with the approval of the executive committee of the Tennessee district attorneys general conference, be compensated as an assistant district attorney general as provided for in subsections (d) and (e).

(b) Certain Assistant District Attorneys General.

(1) All assistant district attorneys general shall receive from the state a salary of twenty-five thousand dollars (\$25,000) per annum, payable out of the state treasury upon the warrant of the commissioner of finance and administration.

(2) Any and each assistant district attorney general who shall file with the commissioner of finance and administration a signed and sworn affidavit of intent approved by the district attorney general of the district, stating that such assistant district attorney general will devote full time to the duties as such assistant district attorney general and will not actively engage in the practice of law in any of the civil courts of the state of Tennessee or any other state, unless such practice involves the official duties of the office of attorney general or district attorney general, shall be designated, for the purposes of this section, a full-time assistant district attorney general and shall receive from the state an amount per annum equal to fifty-five percent (55%) of the annual compensation of a district attorney general, payable monthly out of the treasury of the state upon the warrant of the commissioner of finance and administration.

(3) Nothing in this section shall be construed as prohibiting any assistant district attorney general from concluding any litigation which such assistant district attorney general had pending prior to appointment as a full-time assistant district attorney general.

(4) Notwithstanding the foregoing language, in furtherance of the goal of developing a corps of capable and experienced full-time prosecuting attorneys throughout the state, and thus enhancing the state's ability to cope with recent increases in crime and criminal activity in the state, each full-time assistant district attorney general who has served or has received credit for serving one (1) or more years as a full-time assistant district attorney general shall receive from the state a salary according to the schedule hereinafter set out, payable monthly out of the treasury of the state upon warrant of the commissioner of finance and administration:

- (A) After one (1) year's
service
an amount per annum equal to sixty percent (60%) of the annual
compensation of a district attorney general;
- (B) After two (2) years'
service
an amount per annum equal to sixty-five percent (65%) of the annual
compensation of a district attorney general;
- (C) After three (3) years'
service
an amount per annum equal to seventy percent (70%) of the annual
compensation of a district attorney general;
- (D) After four (4) years'
service
an amount per annum equal to seventy-five percent (75%) of the annual
compensation of a district attorney general;
- (E) After five (5) years'
service
an amount per annum equal to eighty percent (80%) of the annual
compensation of a district attorney general;
- (F) After six (6) years'

service
an amount per annum equal to eighty-five percent (85%) of the annual compensation of a district attorney general;

(5) Compensation computed pursuant to the salary schedule in subdivision (b)(4) shall be recomputed on July 1 of each year, beginning July 1, 1973, to allow for the adjustments in the compensation of district attorneys general as provided in § 8-23-101; provided, that no salary or level of compensation for a district attorney general or a full-time assistant district attorney general, once set, shall be reduced by reason of any subsequent adjustment pursuant to § 8-23-101.

(6) In computing the number of years' service pursuant to the salary schedule in subdivision (b)(4), any full-time assistant district attorney general who has previous experience as an assistant district attorney general or as a district attorney general and signs the affidavit mentioned in subdivision (b)(2) shall receive credit for one (1) year's service for each two (2) year's part-time experience.

(7) In computing the number of years' service pursuant to the salary schedule in subdivision (b)(4):

(A) Any assistant district attorney general who has previous experience as an assistant state attorney general or as a district attorney general shall receive full credit for such experience;

(B) Any assistant district attorney general who has been employed in full-time service on the staff of a district attorney general as an attorney representing the state before the courts of the state since July 1, 1969, irrespective of the title or position held and irrespective of the source of funds from which such attorney was compensated, shall receive full credit for such experience;

(C) Any assistant district attorney general who has previous experience as a law clerk with the supreme court of the state, or service in the field of criminal law with the United States department of justice, or service in the field of criminal law as a special agent or a criminal investigator employed by the state or a district attorney general, shall receive full credit for such experience;

(D) Any assistant district attorney general, who has previous experience as a commissioned officer, working as a military attorney in the field of criminal law while on full-time active duty in the judge advocate general's corps of any of the armed services of the United States, shall receive full credit for such period of active duty military criminal law experience as supported by sworn affidavit;

(E) Any assistant district attorney general who has previous experience as counsel with the public service commission, the Tennessee public utility commission, or the Tennessee regulatory authority shall receive full credit for such experience;

(F) Any assistant district attorney general who has previous experience with the Tennessee toxicology laboratory and/or the Tennessee crime laboratory shall receive full credit for such experience; and

(G) Any assistant district attorney general who has previous experience as a full-time salaried law enforcement officer shall receive full credit for such experience.

(c)(1) Compensation computed pursuant to the salary schedule shall be recomputed on July 1 of each year to allow for any adjustments in the

compensation of district attorneys general.

(2) In computing the number of years of service under the salary scale applicable to full-time assistants employed after June 30, 1980, credit may be given for an assistant's prior experience as a licensed attorney, full-time, salaried law enforcement officer or criminal investigator for such district attorney general. Such credit shall be given only upon the recommendation of the district attorney general making the appointment and the approval of the executive committee of the district attorneys general conference, and may be for any period of time up to, but not exceeding, the assistant's experience as a licensed attorney or criminal investigator.

(d) **Certain Assistant District Attorneys General Employed After January 1, 1989.** Notwithstanding the foregoing language, any assistant district attorney general employed after January 1, 1989, who shall file the affidavit provided for in subdivision (b)(2) shall be compensated as provided for in subsection (c), except for the substitution of the following salary scale for that in subsection (c):

(1) Less than one (1) year of satisfactory service
an amount per annum equal to fifty percent (50%) of the annual compensation of a district attorney general;

(2) After one (1) year of satisfactory service
an amount per annum equal to fifty-five percent (55%) of the annual compensation of a district attorney general;

(3) After two (2) years of satisfactory service
an amount per annum equal to sixty percent (60%) of the annual compensation of a district attorney general;

(4) After three (3) years of satisfactory service
an amount per annum equal to sixty-five percent (65%) of the annual compensation of a district attorney general;

(5) After four (4) years of satisfactory service
an amount per annum equal to seventy percent (70%) of the annual compensation of a district attorney general;

(6) After five (5) years of satisfactory service
an amount per annum equal to seventy-five percent (75%) of the annual compensation of a district attorney general;

(7) After six (6) years of satisfactory service
an amount per annum equal to eighty percent (80%) of the annual compensation of a district attorney general;

(8) After seven (7) years of satisfactory service
an amount per annum equal to eighty-five percent (85%) of the annual compensation of a district attorney general;

(e)(1) Notwithstanding the foregoing, on and after July 1, 1991, any full-time assistant district attorney no longer eligible for step increases under this section who has at least twelve (12) years of credited service as an assistant district attorney general in Tennessee shall be compensated according to the following schedule of such credited service:

(A) At least twelve (12) years, but less than sixteen (16) years, an amount per annum equal to eighty percent (80%) of the credited annual compensation of a district attorney general in effect on July 1, 2006;

(B) At least sixteen (16) years, but less than twenty (20) years, an amount per annum equal to eighty-two and one-half percent (82.5%) of the credited annual compensation of a district attorney general in effect on

156

July 1, 2006; or

(C) Twenty (20) or more years, eighty-five percent (85%) of the credited annual compensation of a district attorney general in effect on July 1, 2006.

(2) Compensation computed pursuant to the above schedule shall be recomputed annually, based on the salary of the district attorney general on July 1, 2006, and adjusted annually to reflect the average percentage pay increase provided for state employees by the general appropriations act. For purposes of this subsection (e), in computing annual salary increases that are tied to salary increases appropriated to state employees, it is the intention of the general assembly that the increases are to be based solely on the specific percentage increase granted by the general appropriations act to all general state employees. Adjustments to annual salary increases as provided for in this subsection (e) that are tied to salary increases of state employees are not to be adjusted on the basis of any class compensation efforts, class compression efforts, or any other method of salary adjustments.

(3) On July 1, 2006, and annually on each succeeding July 1, the executive director of the district attorneys general conference shall reclassify into the salary schedule set forth in § 8-7-226 any employee who was hired prior to July 1, 1994, and has more than twenty (20) years of credited service as an assistant district attorney general.

(f) In computing the number of years' service pursuant to this section, a criminal investigator or an assistant district attorney general shall receive full credit for experience in serving as a full-time member of any board or commission of the state which administers the laws relative to corrections and paroles and supervises investigations pursuant to such laws and whose members are appointed by the governor.

(g) Implementation of salary increases pursuant to the pay schedules prescribed in this section shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to pay schedules prescribed in this section shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

(h) The salary increases prescribed in subsections (b)-(e) and suspended by subsection (g) for the period July 1, 2003, through June 30, 2004, and the period July 1, 2009, through June 30, 2010, are reinstated effective July 1, 2019. For purposes of determining the appropriate salary classification pursuant to this section, credible service for the time period of July 1, 2003, through June 30, 2004, and the time period of July 1, 2009, through June 30, 2010, is included.

8-7-226. Salaries of assistant district attorneys general.

(a) All assistant district attorneys general hired after July 1, 1994, or reclassified pursuant to § 8-7-201(e)(3), shall be compensated according to the following pay schedule:

Entry level	\$	49,080
after one (1) year		52,164
after two (2) years		55,248
after three (3) years		58,344

157

after four (4) years	61,452
after five (5) years	64,512
after six (6) years	67,596
after seven (7) years	70,704
after eight (8) years	73,812
after nine (9) years	76,872
after ten (10) years	79,968
after eleven (11) years	83,052
after twelve (12) years	86,100
after thirteen (13) years	89,184
after fourteen (14) years	92,256
after fifteen (15) years	95,328
after sixteen (16) years	98,424
after seventeen (17) years	101,220
after eighteen (18) years	103,932
after nineteen (19) years	106,548
after twenty (20) years	109,020
after twenty-one (21) years	112,620
after twenty-two (22) years	116,316
after twenty-three (23) years	120,144
after twenty-four (24) years	124,392
after twenty-five (25) years	128,616

(b) Implementation of salary increases pursuant to the pay schedule prescribed in subsection (a) shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to the pay schedule prescribed in subsection (a) shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

(c) The salary increase provided by subsection (a), and suspended by subsection (b) for the period July 1, 2003, through June 30, 2004, is reinstated effective July 1, 2017. For purposes of determining the appropriate salary classification for assistant district attorneys, credible service for the time period of July 1, 2003, through June 30, 2004, is included.

(d) The salary increase provided by subsection (a), and suspended by subsection (b) for the period July 1, 2009, through June 30, 2010, is reinstated effective July 1, 2019. For purposes of determining the appropriate salary classification for assistant district attorneys, credible service for the time period of July 1, 2009, through June 30, 2010, is included.

8-7-310. Duties of executive director.

The executive director of the district attorneys general conference shall attend to such duties as may be assigned by the district attorneys general conference or the executive committee of such conference.

8-7-315. Budget submitted to general assembly.

Each year's budget for the operation of the office of executive director of the district attorneys general conference shall be submitted to the judiciary committee of the house of representatives and the senate judiciary committee prior to approval of the budget by the general assembly.

158

8-8-201. Duties of office.

(a) It is the sheriff's duty to:

(1) Execute and return, according to law, the process and orders of the courts of record of this state, and of officers of competent authority, with due diligence, when delivered to the sheriff for that purpose;

(2)(A) Except as provided in subdivision (a)(2)(B), attend upon all the courts held in the county when in session; cause the courthouse or courtroom to be kept in order for the accommodation of the courts; furnish them with fire and water; and obey the lawful orders and directions of the court;

(B)(i) In any municipality having a metropolitan form of government and a population of over four hundred fifty thousand (450,000), according to the 1990 federal census or any subsequent federal census, the trial judges shall, within the annual budget appropriation, appoint persons to serve as court officers for the respective courts, such persons to serve at the will of, and under the direction and supervision of the appointing judge. The officers shall be paid in accordance with the general pay plan of such a municipality;

(ii) It is the duty of such court officers to maintain order during sessions of the court, to serve process as ordered and to perform such other duties as may be prescribed by the judge. The court officers shall, while acting in the performance of their duties, possess and exercise police powers to the same extent as that granted to members of the metropolitan police department;

(3) Take charge and custody of the jail of the sheriff's county, and of the prisoners therein; receive those lawfully committed, and keep them personally, or by deputies or jailer, until discharged by law; be constantly at the jail, or have someone there, with the keys to liberate the prisoners in case of fire; provided, that if two (2) or more counties enter into an interlocal agreement providing for a jail to serve the counties which are parties to the agreement, the sheriff of any county which is party to such agreement shall not take charge and custody of the jail shared by the agreeing counties unless the interlocal agreement so provides, nor shall the sheriff have charge of the prisoners lawfully committed to such a jail unless so provided by the interlocal agreement;

(4) Mark on all process delivered to the sheriff to be executed, the day on which the sheriff received the same;

(5)(A) Execute all writs and other process legally issued and directed to the sheriff, within the county, and make due return thereof, either personally or by a lawful deputy or, in civil lawsuits only, by a lawfully appointed civil process server except in counties specified in subdivision (a)(5)(B);

(B) The provisions of subdivision (a)(5)(A), relative to other authorized process servers, do not apply in the counties having a population of:

<u>not less than</u>	<u>nor more than</u>
41,800	41,900
85,725	85,825
143,900	144,000
287,000	288,000

according to the 1980 federal census or any subsequent census;

(6) Execute every notice to take depositions, delivered to the sheriff, for any party residing in the county, by delivering a copy thereof to such party in due time; mark on the original notice the time of delivering such copy, and return the same to the clerk of the court in which the suit is pending;

(7) Serve, in due time, any delinquent officer or principal debtor with a copy of any notice of motion delivered to the sheriff to be served on such officer or debtor, and return the original notice in due time to the clerk of the court in which the motion is to be made, with the sheriff's endorsement of service;

(8) Go to the house or place of abode of every defendant against whom the sheriff has process, before returning on the same that the defendant is not to be found;

(9) Specify in the return in what county in the state the defendant resides, when the defendant is a known inhabitant of any other county than that of the sheriff to which the process is directed;

(10) Use, in the execution of process, a degree of diligence exceeding that which a prudent person employs in such person's own affairs;

(11) Give a receipt, if required by the party, for executions delivered to the sheriff;

(12) Receive nothing but money, or, unless otherwise instructed, current convertible bank notes, in satisfaction of any writ of execution delivered to the sheriff;

(13) Levy every writ of execution first on the defendant's goods and chattels, if there are any;

(14) Levy the same upon lands to the amount of the whole debt, or so much of the debt as may exceed the value of the goods and chattels, if there are not, to the best of the sheriff's knowledge, goods and chattels sufficient to answer the plaintiff's demand;

(15) Exhaust the property of a principal before selling the property of a surety, as provided in § 26-3-105;

(16) Take from a defendant, on whose personal property the sheriff has levied an execution, a delivery bond, if requested, with surety, for double the amount of the execution, payable to the plaintiff, conditioned for the delivery of the property at the day and place of sale;

(17) Levy such execution, if the bond be forfeited, upon so much of the property of the defendant, if to be found, as shall be sufficient to satisfy it; and, if there be a deficit, then upon the surety's property, sufficient to satisfy so much of the debt as the property not delivered was valued at;

(18) Summon a jury to ascertain the value of the undelivered property of the principal, if the value is not set forth in the delivery bond;

(19) Return the execution, and the bond with it, to the tribunal from which it issued, if satisfaction of the execution cannot be had before the return day;

(20) Have personal property that the sheriff sells under execution present at the time of sale, unless the defendant agrees that it may be sold without being present;

(21) Describe land levied upon by execution or attachment, so as to identify it and distinguish it from other lands;

(22) Serve the defendant in possession of land with twenty (20) days'

notice of the levy, and of the time and place of sale;

(23) Advertise the sale of any land levied on by execution, as prescribed in §§ 35-5-101 — 35-5-104;

(24) Pay the expenses of such advertisement out of the proceeds of the sale;

(25) Return every execution which is delivered to the sheriff, on or before the day of return mentioned therein, with a sufficient response endorsed thereon or attached to it;

(26) Pay to the party entitled to the same, or to the party's agent or attorney, on demand, any moneys collected by the sheriff on any execution from a court of record;

(27) Return with such execution any money collected on such execution;

(28) Make out, if required by the defendant, on levying any debt, damages, or costs by virtue of an execution, a bill of fees due in the case, and set down, under the bill, a true copy of the clerk's and other endorsed fees separately and distinctly, and give a receipt for the same to the defendant in the execution;

(29) Endorse on the execution the amount of the sheriff's own fees taken on the same, to be entered by the clerk on the execution docket;

(30) Pay to the party entitled thereto, or to the party's agent or attorney, any money collected by the sheriff, by virtue of an execution from a judge of the court of general sessions, on or before the return day of the execution;

(31) Pay to the party entitled to receive the same, or to the party's agent or attorney, any money collected by the sheriff upon any debt or demand delivered to the sheriff for collection, whether the sheriff collects or receives the money before or after the issuance of any summons, or before or after the rendition of a judgment or the issuance of an execution;

(32) Return every execution issued by any judge of the court of general sessions and delivered to the sheriff, with a sufficient response thereon, within thirty (30) days after the issuance of the same, either to the judge who issued it, or to the judge having possession of that judge's papers;

(33) Perform such other duties as are, or may be, imposed by law;

(34) Enforce the ordinances of a municipality; provided, that the municipality has expressed by ordinance its intent to have the sheriff enforce its ordinances, and that the municipality has filed a certified copy of its ordinances with the sheriff and the general sessions court of the county;

(35)(A) Take or cause to be taken a full set of fingerprints of each person arrested whether by warrant or capias for an offense which results in such person's incarceration in a jail facility or the person's posting of a bond to avoid incarceration. If fingerprints are maintained manually, two (2) full sets of fingerprints shall be obtained and sent to the Tennessee bureau of investigation. If fingerprints are maintained electronically, a set of fingerprints shall be transmitted to the Tennessee bureau of investigation. Upon receipt of the fingerprints, the Tennessee bureau of investigation shall retain one (1) set of the fingerprints as provided in § 38-6-103, and shall send one (1) set of the fingerprints to the federal bureau of investigation;

(B) A person who is issued a citation pursuant to § 40-7-118 or § 40-7-120 shall not, for purposes of this section, be considered to have been arrested and the agency issuing the citation shall not be required to take the fingerprints of such person; and

(36) Promptly turn over and transfer custody of any inmate sentenced to the department of correction who is being housed in such sheriff's local jail awaiting transfer when called upon to do so by a state official pursuant to § 40-35-212 or § 41-8-106.

(b)(1) In addition to the duties set forth in subsection (a), the sheriff shall perform the duties set forth in the following sections: 2-17-106, 5-7-108, 6-55-201, 7-51-1105, 7-51-1107, 7-51-1111, 7-86-105, 8-4-115, 8-7-110, 8-22-110, 8-26-108, 11-24-112, 16-2-505, 16-15-715, 16-15-901, 18-1-206, 20-2-103, 20-2-111, 22-2-307, 22-2-310, 26-1-402, 26-2-216, 26-2-405, 26-2-406, 26-5-116, 29-16-111, 29-17-706, 29-18-115, 33-3-611, 33-5-409, 33-6-406, 33-6-407, 33-6-610, 33-6-611, 33-6-615, 33-6-901, 37-1-213, 37-1-310, 37-1-403, 37-1-405, 37-1-603, 37-1-605, 37-1-607, 37-5-205, 38-1-106, 38-3-102, 38-3-108, 38-3-122, 38-7-106, 38-7-108, 38-7-116 [repealed], 38-8-102, 38-8-111, 38-10-102, 38-11-204, 39-14-149, 39-17-420, 39-17-429, 39-17-714, 39-17-1315, 39-17-1317, 39-17-1351, 39-17-1361, 40-6-105, 40-6-210, 40-6-212, 40-6-215, 40-7-120, 40-9-103, 40-9-124, 40-9-127, 40-10-105, 40-10-106, 40-11-106, 40-11-135, 40-11-147, 40-11-207, 40-11-211, 40-11-212, 40-13-301, 40-20-117, 40-23-103, 40-23-113, 40-23-116, 40-25-111, 40-25-135, 40-28-107, 40-30-110, 40-33-102, 40-33-104, 40-33-105, 40-33-107, 40-35-307, 40-36-201, 40-38-103, 41-1-604, 41-4-143, 41-7-105, 41-8-105, 41-11-105, 41-11-110, 41-21-308, 41-21-909, 41-22-301, 41-22-303, 41-22-307, 47-13-104, 47-25-404, 49-6-3007, 49-6-3203, 53-11-451, 54-11-105, 54-14-106, 55-10-402, 55-10-410, 55-10-420, 57-3-410, 57-5-202, 57-9-101, 57-9-102, 57-9-103, 57-9-104, 57-9-106, 57-9-107, 57-9-108, 57-9-110, 57-9-111, 57-9-115, 57-9-118, 60-1-205, 62-35-131, 63-3-126, 63-5-124, 63-8-120, 63-9-110, 63-16-115, 63-17-219, 63-25-110, 65-6-133, 66-19-206, 66-19-208, 66-19-209, 66-23-111, 67-1-1202, 67-1-1203, 67-4-110, 67-4-215, 67-4-603, 67-4-1017, 67-5-2006, 68-29-136, 68-102-145, 68-120-401, 68-140-522, 70-4-106, 70-6-201, and 71-6-208.

(2) The sheriff shall perform such other duties as are, or may be, imposed by law or custom.

8-8-303. Waiver of governmental immunity — Special deputies.

(a) The governmental immunity of the county in which the sheriff serves is waived for purposes of § 8-8-302, but to an extent not in excess of the minimum amount required for a surety bond applicable to that county's sheriff pursuant to § 8-8-103. This cap, based on the amount required for a bond, shall apply regardless of whether the sheriff is covered by a surety bond or an insurance policy pursuant to § 8-19-101.

(b) Anyone incurring any wrong, injury, loss, damage, or expense resulting from any act or failure to act on the part of any special deputy appointed by the sheriff, but not employed by the sheriff or the county, shall not bring suit therefor against the sheriff or the county, and the sheriff and county shall be immune from such suits, and the plaintiff shall be required to pursue the remedy therefor against such special deputy and/or the employer or employers of such special deputy, whether the special deputy is acting within the scope of employment or not. Such immunity from suit shall not apply in the case of special volunteer or reserve sheriff's deputies while performing official law enforcement duties under supervision or direction of the sheriff.

(c) No person may serve as a special deputy unless such person proves to the appointing sheriff financial responsibility, as evidenced by a corporate surety

162

bond in no less amount than fifty thousand dollars (\$50,000) or by a liability insurance policy of the employer in no less amount than fifty thousand dollars (\$50,000).

8-13-107. Records kept in office — Suitable facility

(a) The papers and records of the office shall at all times be and remain in the register's office or other suitable facility.

(b) As used in this section, "suitable facility" means a facility that stores local government records securely against theft and natural disasters.

8-14-101. Indigent person — Defined.

For the purposes of this part, an "indigent person" is one who does not possess sufficient means to pay reasonable compensation for the services of a competent attorney:

- (1) In any criminal prosecution or juvenile delinquency proceeding involving a possible deprivation of liberty; or
- (2) In any habeas corpus or other post-conviction proceeding.

8-14-102. Creation of the district public defenders office — Positions and qualifications — Elections and appointments.

(a) For each judicial district, except the twentieth and thirtieth districts, the offices of district public defender, assistant district public defender and district investigator are hereby created.

(b)(1)(A) The terms of office of all district public defenders shall be eight (8) years, and until their successors are elected and qualified. Each district public defender shall be elected by the qualified voters of each respective district in the regular August election. The district public defender shall be a duly licensed attorney admitted to the practice of law in this state, and shall have been a resident of the state for five (5) years and of the judicial district for one (1) year.

(B) A vacancy in the office of the district public defender shall be filled by the voters of the district at the next biennial election more than thirty (30) days after the happening of the vacancy. The election shall be ordered by the governor by issuing proper writs of election to the county election commissions throughout the district, notice being given for one (1) month by publication in one (1) or more newspapers in the district. In the meantime, the governor shall appoint a suitable person to fill the office temporarily until the election takes place.

(2) The district public defender of any judicial district in which assistant district public defender positions are authorized by law shall appoint suitable persons to serve as assistant district public defenders. Any assistant district public defender shall be an attorney licensed to practice law in this state. Persons so appointed shall serve at the pleasure of the district public defender and shall perform such duties as the district public defender may require.

(3) The district public defender of any judicial district in which district investigator positions are authorized by law shall appoint suitable persons to serve as district investigators. Persons so appointed shall serve at the pleasure of the district public defender and shall perform such duties as the

district public defender may require.

(c) No person holding the office of district public defender pursuant to this part shall be permitted to engage in the practice of law except as the duties of such office require. No person employed as a full-time assistant district public defender or as a full-time district investigator pursuant to this part shall be permitted to engage in the practice of law except as the duties of such positions require. Notwithstanding any other restrictions, attorneys with pending private legal matters at the time of employment with the office of district public defender shall have a reasonable length of time to conclude or transfer such cases in keeping with the standards of professional and ethical conduct.

(d)(1) For each judicial district in which district public defenders are authorized, there shall be authorized the following number of assistant district public defender positions:

<u>Judicial district</u>	<u>Assistant district public defender positions</u>
1	6
2	6
3	6
4	5
5	3
6	16
7	3
8	4
9	3
10	5
11	10
12	4
13	5
14	3
15	4
16	5
17	4
18	4
19	6
21	4
22	5
23	4
24	4
25	5
26	5
27	3
28	3
29	3
31	1

(2) It is the legislative intent to provide additional assistant district public defender positions in both the 20th and 30th judicial districts in a manner consistent with the most current weighted caseload study. Funding for these positions shall be contingent upon specific appropriation by the general

appropriations act for such positions.

(e) For each district, there is authorized at least one (1) criminal investigator position and one (1) additional criminal investigator for each five (5) assistant district public defenders or majority portion of such number.

(f) A district public defender may fill a full-time employee position with two (2) part-time employees. In order to implement such assignments, available funds may be reallocated or transferred, subject to overall budgetary limits.

(g) There is authorized one (1) paralegal position for the sixth judicial district.

(h) The number of assistant district public defender positions enumerated in this section or any other law for each specified judicial district shall be the minimum number of positions authorized in the district. Nothing in this section or any other law shall be construed to prohibit or prevent the employment of additional assistant district public defenders in a particular judicial district, regardless of whether the positions are funded by a state or non-state source, or whether they are specifically enumerated in this or any other section.

8-14-104. District public defender — Duties.

(a) The district public defender has the duty and responsibility of representing indigent persons for whom the district public defender has been appointed as counsel by the court. Either personally or through an assistant district public defender, the district public defender shall counsel with the accused and represent such accused in the trial court. If the accused is aggrieved by the judgment of the trial court imposing a sentence of imprisonment, or dismissing a habeas corpus or post-conviction petition, the district public defender shall advise such accused fully concerning rights of appellate review.

(b) If the accused desires to appeal to an appellate court, the district public defender shall seasonably take all steps necessary to perfect the appeal, including a new trial motion when required and the filing of all essential transcripts and records with the clerk of the appellate court.

(c) The district public defender has the duty and responsibility of handling all appeals filed by an indigent person represented in the trial courts of this state.

(d) At such times and in such form and manner as may be directed by the chairs of the judiciary committee of the house of representatives and the judiciary committee of the senate, each executive director of the district public defenders conference shall submit reports reflecting the number, kind, status, and disposition of all cases and proceedings.

8-14-107. Compensation.

(a) Effective July 1, 1994, the salary for district public defenders shall be an amount equal to eighty-eight percent (88%) of the salary established by law for district attorneys general. Effective July 1, 1995, the salary for district public defenders shall be an amount equal to the salary established by law for district attorneys general. On March 1, 2018, the base salary for district public defenders shall be one hundred fifty-six thousand twenty-four dollars (\$156,024) and shall be adjusted on July 1 to reflect the average percentage pay increase provided for state employees by the general appropriations act.

(b)(1) A full-time assistant district public defender shall be compensated

according to the following pay schedule:

Entry level	\$ 49,080
after one (1) year	52,164
after two (2) years	55,248
after three (3) years	58,344
after four (4) years	61,452
after five (5) years	64,512
after six (6) years	67,596
after seven (7) years	70,704
after eight (8) years	73,812
after nine (9) years	76,872
after ten (10) years	79,968
after eleven (11) years	83,052
after twelve (12) years	86,100
after thirteen (13) years	89,184
after fourteen (14) years	92,256
after fifteen (15) years	95,328
after sixteen (16) years	98,424
after seventeen (17) years	101,220
after eighteen (18) years	103,932
after nineteen (19) years	106,548
after twenty (20) years	109,020
after twenty-one (21) years	112,620
after twenty-two (22) years	116,316
after twenty-three (23) years	120,144
after twenty-four (24) years	124,392
after twenty-five (25) years	128,616

(2) The salary levels for assistant district public defenders shall be increased by such percentage amount as shall be fixed by the general assembly in the general appropriations act. For the purpose of budget preparation, it shall be presumed that such percentage amount shall be the same as that received by other state employees.

(3) The executive director of the Tennessee district public defenders conference shall certify the entry level of compensation awarded to assistant district public defenders based on prior service credits. Subject to the approval of the district public defender, assistant district public defenders shall be entitled to prior service credits as follows:

(A) Any assistant district public defender who has prior experience as an assistant district public defender, an assistant district attorney general, a district public defender, a district attorney general, a criminal investigator for the district public defenders, a criminal investigator for the district attorneys general, a United States attorney, an assistant United States attorney, an assistant attorney general representing the state in criminal litigation, an elected judge of a court with criminal jurisdiction, an attorney who served as a law clerk for an appellate or trial judge of a court with criminal jurisdiction or an attorney who as a commissioned officer worked as a military attorney in the field of criminal defense or criminal prosecution while on full-time active duty in the judge advocate general's corps of any of the armed services of the United States, shall be eligible to receive year-for-year credit upon the recommendation of the hiring district public defender, and subject to the approval of the

executive committee of the Tennessee district public defenders conference.

(B) The executive director of the Tennessee district public defenders conference may certify prior service credits for prior practice of law but not exceeding the assistant's experience as a licensed practicing attorney and, in no case, shall year-for-year credit exceed twelve (12) years.

(4) Implementation of salary increases pursuant to the pay schedule prescribed in subdivision (b)(1) shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to the pay schedule prescribed in subdivision (b)(1) shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

(5) The salary increase provided by subdivision (b)(1), and suspended by subdivision (b)(4) for the period July 1, 2003, through June 30, 2004, shall be reinstated effective July 1, 2017. For purposes of determining the appropriate salary classification for assistant district public defenders, credible service for the time period of July 1, 2003, through June 30, 2004, shall be included.

(6) The salary increase provided by subdivision (b)(1), and suspended by subdivision (b)(4) for the period July 1, 2009, through June 30, 2010, is reinstated effective July 1, 2019. For purposes of determining the appropriate salary classification for assistant district public defenders, credible service for the time period of July 1, 2009, through June 30, 2010, is included.

(c)(1) Effective March 1, 2018, all full-time district investigators shall be compensated according to the following pay schedule:

Entry level	\$ 33,852
after two (2) years	36,924
after four (4) years	39,972
after six (6) years	43,032
after eight (8) years	46,164
after ten (10) years	49,188
after twelve (12) years	52,320
after fourteen (14) years	55,332
after sixteen (16) years	58,428
after eighteen (18) years	61,512
after twenty (20) years	64,584

(2) The salary levels for district investigators shall be increased by such percentage amount as shall be fixed by the general assembly in the general appropriations act. For the purpose of budget preparation, it shall be presumed that such percentage amount shall be the same as that received by other state employees.

(3) The executive director of the district public defenders conference shall certify the level of compensation awarded to district investigators based on prior service credits. Subject to the approval of the district public defender, district investigators are entitled to the same prior service credits as allowed criminal investigators for the district attorneys general in § 8-7-231, as well as relevant experience as a criminal defense investigator.

(4) If a district public defender having a vacant district investigator position appoints a licensed attorney to that position and designates that

person to serve as an assistant district public defender, the appointee may, upon recommendation of the appointing district public defender, with approval of the executive committee of the district public defenders conference be compensated as an assistant district public defender as provided for in subsection (b).

(5) Implementation of salary increases pursuant to the pay schedule prescribed in subdivision (c)(1) shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to the pay schedule prescribed in subdivision (c)(1) shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

(6) The salary increase provided by subdivision (c)(1), and suspended by subdivision (c)(5) for the period July 1, 2003, through June 30, 2004, shall be reinstated effective July 1, 2017. For purposes of determining the appropriate salary classification for district public defender investigators, credible service for the time period of July 1, 2003, through June 30, 2004, shall be included.

8-14-113. Direct public defender appellate division.

(a) The district public defenders conference shall establish, and the executive director shall operate, the district public defender appellate division for the purpose of representing indigent persons in direct appeals, pursuant to § 8-14-104, to the Tennessee court of criminal appeals and the Tennessee supreme court.

(b) The executive director, or the executive director's designee, shall be the director of the appellate division.

(c) An assistant public defender of the appellate division must be an attorney licensed to practice law in this state. A person so employed serves at the direction of the executive director and performs such duties as the executive director may require.

(d)(1) The appellate division shall represent indigent persons upon appeal from the circuit or criminal courts in this state, pursuant to § 8-14-104.

(2) The appellate division may, however, refuse the appointments where necessary:

(A) Due to a conflict of interest;

(B) If the executive director determines the existing caseload cannot be increased without jeopardizing the appellate division's ability to provide effective representation; or

(C) Where the district public defender deems it necessary for the best interests of the defendant.

(e)(1) In order to effectively and efficiently use the resources of the appellate division, the executive director may:

(A) Select and employ staff attorneys to perform the duties prescribed by this section; and

(B) Fill a full-time employee position with two (2) part-time employees.

(2) In order to implement assignments, available funds may be reallocated or transferred, subject to overall budgetary limits.

(f) A person employed as a full-time assistant public defender in the

appellate division pursuant to this section is not permitted to engage in the practice of law except as the duties of such position requires. Notwithstanding any other restrictions, attorneys with pending private legal matters at the time of employment with the district public defender appeals division shall have a reasonable length of time to conclude or transfer such cases in keeping with the standards of professional and ethical conduct.

(g) Effective July 1, 2019, there are authorized six (6) appellate attorney positions within the appellate division.

(h) Appellate division attorneys are to be compensated as assistant public defenders pursuant to § 8-14-107.

8-14-303. Office of executive director — Duties.

(a) The executive director of the district public defenders conference shall:

(1) Work under the supervision and direction of the executive committee of the district public defenders conference;

(2) Assist the district public defenders throughout the state in coordinating the efforts of such district public defenders to perform their duties. Such assistance shall include, but is not limited to:

(A) Obtaining, preparing and supplementing indexes to the unreported decisions of the criminal court of appeals and the supreme court of Tennessee relating to criminal matters;

(B) Preparation of a basic defenders' manual and educational materials; and

(C) Preparation and distribution of uniform appropriate forms;

(3) Initiate conference calls between district public defenders and coordinate efforts of district public defenders involved in defending cases and crimes crossing district lines;

(4) Serve in a liaison capacity among the various branches of state government and the divisions thereof, including, but not limited to, the courts, the general assembly, the executive department and the office of attorney general and reporter;

(5) Administer the accounts of the judicial branch of government which relate to the offices of the district public defenders and prepare, approve and submit budget estimates and appropriations necessary for the maintenance and operation of the offices of district public defenders and make recommendations with respect thereto;

(6) Draw and approve all requisitions for the payment of public moneys appropriated for the maintenance and operation of the judicial branch of government which relate to the offices of the district public defenders, and shall audit claims and prepare vouchers for presentation to the department of finance and administration, including payroll warrants, expense warrants, and warrants covering the necessary costs of supplies, materials and other obligations by the various offices with respect to which fiscal responsibility is exercised;

(7) Have authority, within budgetary limitations, to provide the district public defenders with minimum law libraries, the nature and extent of which shall be determined in every instance by the executive director on the basis of need. All books thus furnished shall remain the property of the state, and shall be returned to the custody of the executive director by each district public defender upon the retirement or expiration of the official duties of

each such officer; and

(8) Manage the operations and administer the accounts that relate to the appellate division.

(b) All functions performed by the executive director which involve expenditures of state funds shall be subject to the same auditing procedures by the commissioner of finance and administration and the comptroller of the treasury as required in connection with the expenditure of all other state funds.

8-14-304. Duties of executive director.

The executive director of the district public defenders conference shall attend to such duties as may be assigned to the executive director by the district public defenders conference or the executive committee of such conference.

8-14-305. Executive director — Assistants and staff.

(a) The executive director shall, subject to the approval of the duly elected officers of the district public defenders conference, appoint a deputy executive director, a budget officer and a director and such other assistants and clerical personnel as are necessary to enable the performance of the duties of the office.

(b) Compensation for other assistants and clerical personnel shall be fixed by the executive director with the approval of the executive committee of the district public defenders conference.

(c) A newly elected or appointed executive director, deputy executive director, or employee licensed as an attorney is not permitted to engage in the practice of law except as the duties of such position requires. Notwithstanding any other restrictions, attorneys with pending private legal matters at the time of employment with the office of executive director shall have a reasonable length of time to conclude or transfer such cases in keeping with the standards of professional ethical conduct.

8-14-308. Submission of budget.

Each year's budget for the operation of the office of executive director of the district public defenders conference shall be submitted to the judiciary committee of the house of representatives and the judiciary committee of the senate prior to approval of the budget by the general assembly.

8-18-101. Eligibility to hold office.

All persons eighteen (18) years of age or older who are citizens of the United States and of this state, and have been inhabitants of the state, county, district, or circuit for the period required by the constitution and laws of the state, are qualified to hold office under the authority of this state except:

(1) Those who have been convicted of offering or giving a bribe, or any other offense declared infamous under § 40-20-112, unless restored to citizenship under title 40, chapter 29; except those who have been convicted of an infamous crime if the offense was committed in the person's official capacity or involved the duties of the person's office, in which case the person shall forever be disqualified from holding office;

(2) Those against whom there is a judgment unpaid for any moneys received by them, in any official capacity, due to the United States, to this

170

state, or any county of this state;

(3) Those who are defaulters to the treasury at the time of the election, and the election of any such person shall be void;

(4) Soldiers, sailors, marines, or airmen in the regular army or navy or air force of the United States; and

(5) Members of congress, and persons holding any office of profit or trust under any foreign power, other state of the union, or under the United States.

8-18-102. Penalty for acceptance of office by ineligible person.

(a) Any person taking on any office in this state, by election or appointment, under any of the disqualifications specified in § 8-18-101(2)–(5), commits a Class C misdemeanor.

(b) Any person taking on any office in this state, by election or appointment, under the disqualification specified in § 8-18-101(1), commits a Class A misdemeanor.

8-18-109. Filing of oaths of county officers — Administration of oaths.

(a) Judges of courts of general sessions, sheriffs, constables, and other officers whose general duties are confined to a single county, as well as retired supreme court justices and retired inferior court or general sessions judges, shall, unless it is otherwise provided, file such oaths and certificate in the office of the county clerk.

(b) Notwithstanding any law to the contrary, the county mayor, the county clerk, judges of courts of general sessions, judicial commissioners or magistrates as authorized by a judge of the court or the county mayor, or a judge of any court of record in the county may administer the oath of office for any elected or appointed official. The oath may be administered at any time after an appointment, in the case of appointed officials, or in the case of elected officials after the election, but before the judge or public official assumes office, so long as the results of the election establishing that the person taking the oath won the election are certified by the appropriate legal authority. Even though an official may file an oath before the scheduled start of a term of office, the official may not take office until the term officially begins.

8-19-101. Execution of bonds — Form — Blanket bonds.

(a) The official bonds of all state and county officers, now required by law to furnish official bonds, shall be executed by such officials as principal and may be executed by some surety company authorized to do business in the state of Tennessee, as surety.

(b)(1) The form of all official bonds of all state officials and employees and all county officials and employees shall be prescribed by the comptroller of the treasury, with the approval of the attorney general and reporter. Such prescribed forms shall be filed in the office of the secretary of state. All official bonds of all such officers and employees executed hereafter shall be in the prescribed form if one has been provided. To the extent any such official bond is not in the prescribed form, the same shall stand reformed by implication of law so as to comply with the prescribed form.

(2) Should the prescribed form be amended, the amendment shall affect only bonds and undertakings executed subsequently thereto. Bonds shall

continue to be executed in their present form until a form is prescribed therefor under this law. Forms shall be prepared so as to comply with the requirements of statutes of Tennessee relating to such bonds. Where the conditions of bonds are prescribed by statute, the statute shall prevail.

(c) Nothing in this chapter or elsewhere in this code shall be construed as prohibiting the use by any county, municipality, or metropolitan government, of a blanket bond for coverage of two (2) or more of its officials. A separate rider or attachment to the blanket bond shall be prepared for each principal, and wherever in this chapter the term "bond" is used, it likewise includes a blanket bond and each rider or attachment thereto. Each rider or attachment to a blanket bond shall be signed by the named principal, shall be acknowledged by the bond sureties, shall expressly incorporate the conditions stated in § 8-19-111, shall refer specifically to the blanket bond of which it is a part, and shall be filed, approved, and otherwise processed in the manner required for bonds under this chapter.

(d) The governing body of any county by a two-thirds ($\frac{2}{3}$) vote shall elect whether or not the county officials of the county shall make a surety bond or a bond with two (2) or more good sureties, approved by the legislative body, prior to the time such official is inducted and sworn into office.

(e) County governments shall either:

(1) Obtain and maintain blanket surety bond coverage for all county employees not covered by individual bonds referenced elsewhere in statute. The minimum amount of such blanket bonds shall be one hundred fifty thousand dollars (\$150,000); or

(2)(A) Obtain and pay the premiums or other costs with respect to a policy of insurance issued by an insurance company duly authorized to do business in this state or an agreement with a pool established pursuant to § 29-20-401 or any entity established pursuant to § 29-20-401(b)(2) for administration of such agreement, that provides government crime coverage, employee dishonesty insurance coverage, or equivalent coverage that insures the lawful performance by officials and their employees of their fiduciary duties and responsibilities. Any such policy or agreement maintained shall have limits of not less than four hundred thousand dollars (\$400,000) per occurrence;

(B)(i) A policy or agreement satisfying the requirements set forth in subdivision (e)(2)(A) shall be deemed to be a blanket official bond for each official or office identified in the policy or agreement for all purposes under this chapter. The officials who may be covered under the policy or agreement include the following:

- (a) County mayors, pursuant to § 5-6-109;
- (b) County directors of accounts and budgets, pursuant to § 5-13-103;
- (c) County purchasing agents, pursuant to § 5-14-103(c);
- (d) County finance directors, pursuant to § 5-21-109;
- (e) Board members, executive committee members, employees, officers, and other authorized persons of an emergency communications district who handle public funds, pursuant to § 7-86-119;
- (f) Sheriffs, pursuant to § 8-8-103;
- (g) Special deputies appointed by a sheriff, pursuant to § 8-8-303;
- (h) Coroners, pursuant to § 8-9-103;
- (i) County trustees, pursuant to §§ 8-11-102 and 8-11-103;

- (j) County surveyors, pursuant to § 8-12-102;
- (k) County registers, pursuant to §§ 8-13-101 — 8-13-103;
- (l) County officials with the authority to administer state-shared funds, pursuant to § 9-3-301(c);
- (m) Board members, executive committee members, employees, officers, and other authorized persons of a development district who handle public funds, pursuant to § 13-14-114;
- (n) Board members, policy council members, employees, officers, and other authorized persons of a human resource agency who handle public funds, pursuant to § 13-26-110;
- (o) Clerks of court and county clerks, pursuant to §§ 18-2-201 - 18-2-213;
- (p) County directors of schools, pursuant to § 49-2-102;
- (q) Treasurers or fiscal agents of local education agencies, pursuant to § 49-3-315(b)(3);
- (r) Persons who administer county highway and bridge funds, pursuant to § 54-4-103(c);
- (s) Chief administrative officers of county highway departments, pursuant to § 54-7-108;
- (t) County road commissioners, pursuant to § 54-9-119;
- (u) County road engineers, pursuant to § 54-9-132; and
- (v) County assessors of property, pursuant to § 67-1-505;
- (ii) In the event that the policy of insurance maintained by the county ceases to provide coverage to the officeholder for any reason, the officeholder has thirty (30) days from the date of termination of coverage to file a bond or other proof of insurance coverage;
- (iii) A certificate of insurance or a policy or endorsement shall satisfy the requirement for the filing of the official bond by the named officials.
- (C) If a governmental entity obtains and pays premiums on an insurance policy or agreement pursuant to this subdivision (e)(2), then the monetary limits pursuant to the Tennessee Governmental Tort Liability Act, compiled in title 29, chapter 20 shall not increase.

8-23-204. Payroll deduction for certain associations.

- (a)(1) As used in this section, unless the context otherwise requires:
 - (A) “Employee” means an officer or employee who is a regularly employed, full-time employee of the executive branch of state government;
 - (B) “Employee association” means any association of employees complying with subdivision (a)(2), except when otherwise noted herein; and
 - (C) “State agency” means any department, commission, board, office or other agency of the executive, legislative or judicial branch of state government.
- (2) Any employee of a state agency may authorize deductions for the payment of membership dues and benefit premiums to be made from the employee’s compensation for payment to an employee association, if such employee association meets all of the following criteria:
 - (A) It grants membership to any employee who applies for membership without regard to such employee’s job classification, state agency or location;
 - (B) It grants the same rights and privileges of membership to all its

members;

(C) It provides equal services to its members without regard to the job classification, state agency or location of employment within the state of a member;

(D) It has a membership of not less than twenty percent (20%) of the employees of state agencies in the executive, legislative or judicial branch;

(E) It has as one (1) of its objectives the promotion of an efficient and effective work force for state government in Tennessee, and if affiliated in any manner with another organization, the other organization shall have similar objectives;

(F) It is itself a wholly domestic employee organization which is not a part of a multi-state employee organization which controls it or has any right of control; and

(G) It is an independent association that will not merge or join with another employee or labor organization without over fifty percent (50%) of its members affirmatively voting to become so merged or joined.

(3) Any employee association whose membership consists exclusively of employees of a single correctional institute and which has an agreement for payroll deduction of dues entered into prior to July 1, 1977, may continue or renew such agreement without compliance with the requirements established in the criteria in subdivision (a)(2).

(4) Any employee association seeking to qualify under subdivision (a)(2) shall file an initial statement showing the actual number of employees who are members with the commissioner of finance and administration. The commissioner may request an employee association to file an annual certification that it complies with all the requirements of this section. Decisions by the department of finance and administration with regard to an employee association's ineligibility to receive automatic payroll deductions shall not be final until audited and approved by the comptroller of the treasury.

(5)(A) Any professional education association whose active membership consists of at least twenty percent (20%) of the total combined faculty as active members may make an agreement for payroll deduction of dues without compliance with the criteria in subdivision (a)(2), if such association has as a purpose and goal the elevation of the professional status and socio-economic welfare of the members of the teaching profession, or facilitation of cooperation among teachers and research scholars for the promotion of higher education and research. Such agreements shall be applicable to the teachers and faculty on the campuses and institutions of the University of Tennessee and the state university and community college system. Such professional education associations must have existed for more than fifty (50) years and have a total of five (5) or more chapters or affiliates on the campuses and institutions of the University of Tennessee and the state university and community college system.

(B) The provision of subdivision (a)(5)(A) requiring a professional education organization to maintain at least twenty percent (20%) of the total combined faculty as active members in order to qualify for deduction of dues shall not apply to any professional association which has had and has exercised the privilege of deduction of dues for at least four (4) years prior to May 31, 1993.

(6) Any professional education association whose active membership consists of education employees may make an agreement for payroll deduction of dues at state special schools if such a professional education association meets all of the following criteria:

(A) It solicits membership from all certificated employees;

(B) It grants the same rights and privileges of membership to all its active members;

(C) It provides equal services to its active members;

(D) It has a membership of not less than forty percent (40%) of the currently employed certificated employees at each of the state special schools as of July 1, 1991, and can offer proof of continued membership each fiscal year; and

(E) It has as one (1) of its objectives the promotion of education and the elevation of the professional status of the members of the teaching profession.

(7)(A) Any member of the Tennessee highway patrol may authorize payroll deductions for the payment of membership dues to be made from the member's compensation for payment to an organization of members of the Tennessee highway patrol, if such organization meets the following criteria:

(i) It solicits membership from all commissioned members of the Tennessee highway patrol;

(ii) It grants the same rights and privileges of membership to all its members;

(iii) It provides equal services to its members; and

(iv) It has a membership of not less than twenty percent (20%) of the currently employed commissioned members of the Tennessee highway patrol.

(B) Any organization that meets the criteria in subdivisions (a)(7)(A)(i)-(iv) and that seeks to accept the payment of membership dues through payroll deductions shall file with the commissioner of finance and administration an initial statement that states the actual number of employees who are commissioned members of the Tennessee highway patrol. The commissioner may request an organization to file an annual certification that it complies with all the requirements of this subdivision (a)(7). Decisions by the department of finance and administration with regard to an organization's ineligibility to receive automatic payroll deductions shall not be final until audited and approved by the comptroller of the treasury.

(8)(A) Any wildlife resource officer of the Tennessee wildlife resources agency (TWRA) may authorize payroll deductions for the payment of membership dues to be made from the officer's compensation for payment to an officers association of the TWRA, if:

(i) The officers association solicits membership from all wildlife resource officers of the TWRA;

(ii) The officers association grants the same rights and privileges of membership to all of its members;

(iii) The officers association provides equal services to its members;

(iv) The officers association has a membership of at least twenty percent (20%) of the currently employed wildlife resource officers of the TWRA; and

(v) The dues will not be used for political activities. For purposes of this subdivision (a)(8)(A)(v), "political activities" means electoral activities, independent expenditures, or expenditures made to any candidate, political party, or political action committee.

(B) An association that meets the criteria in subdivisions (a)(8)(A)(i)-(v) and that seeks to accept the payment of membership dues through payroll deductions must file with the commissioner of finance and administration a statement that includes the specific number of wildlife officers employed by the TWRA who are members of the association. The commissioner may request the association to certify that it complies with the requirements of this subdivision (a)(8)(B). The department of finance and administration shall not make a final decision regarding an association's eligibility to receive automatic payroll deductions until the association is audited and approved by the comptroller of the treasury to accept the payment of membership dues under this subdivision (a)(8).

(b)(1) Any employee of the state of Tennessee who engages or participates in a work stoppage or who authorizes or encourages a work stoppage commits gross misconduct, shall immediately and permanently forfeit the right to have deductions from compensation authorized in this section, and may be subject to immediate termination of employment. The commissioner of finance and administration is authorized and required to cease and discontinue deducting membership dues under this section for an organization or association, if the commissioner determines that twenty-five percent (25%) or more of the members of the organization or association in a single work location or facility have engaged in a work stoppage of any kind after June 19, 1981. If the organization or association has members at more than one (1) work location or facility, upon the determination that the members of an organization have engaged in a work stoppage, the commissioner shall cancel and revoke the deduction of membership dues for the members of the organization employed at the work location or facility where the work stoppage has occurred.

(2) For the purposes of this subsection (b), a work stoppage includes the failure to report for duty, the willful absence from one's position, the stoppage of work or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment, for the purpose of inducing, influencing or for the purpose of coercing a change in conditions, compensation, rights, privileges or obligations of employment, or of intimidating, coercing or unlawfully influencing others from remaining in or from assuming public employment.

(3) Any employee or other person who procures or attempts to procure, or causes or induces any other person to procure or attempt to procure, an automatic deduction authorization form provided for in this section by fraud, misstatement of material fact, misrepresentation of the authenticity of a signature, or in knowing and willful violation of this section, commits gross misconduct. Any such automatic deduction authorization form shall be void and shall be of no effect.

(c) The following procedures, in addition to the procedures promulgated by the department of finance and administration pursuant to subsection (f), shall govern when an employee authorizes a deduction from compensation for the payment of membership dues to be paid over to an employee association:

(1) To authorize the deduction for the payment of membership dues, an employee shall complete an authorization form which contains the employ-

ee's signature and the following information:

- (A) Employee's name;
- (B) Employee's social security number;
- (C) State agency of employment;
- (D) Facility or location of employment; and
- (E) The following statement:

"I, the undersigned, understand that this authorization is to become effective immediately. I understand that I may revoke this authorization by written notification at any time. Any deductions made from my compensation within thirty (30) days of the effective date of this authorization shall be refunded by the association if revocation is made within such thirty (30) day period. I also understand that the amount of the membership dues deduction may increase or decrease if the association approves an increase or decrease of dues in accordance with its bylaws and rules of procedure. Upon notification to me by the association of an increase or decrease in dues, I understand that I will again have an opportunity to revoke this authorization and receive a refund equal to one (1) month's dues if revocation is made within a thirty (30) day period from the date of notification.";

(2) The deductions for the payment of membership dues from compensation authorized pursuant to this section shall be made from the compensation of an employee on the first payday of each month, and shall be paid over to the employee association within forty-eight (48) hours after such payday. If a state agency has a single monthly payday, such deduction shall be paid over to the employee association within forty-eight (48) hours of such payday;

(3) Any employee who authorizes deductions for the payment of membership dues as provided in this section may, at any time, revoke the authorization for payroll deduction. If revocation of such authorization is made within thirty (30) days of the initial authorization by an employee, any such deductions made and paid over to the employee association shall be refunded to the employee by such association upon receipt of written notice of revocation from the employee;

(4) Upon receipt of certification by an employee association that such association has approved an increase or decrease of dues in accordance with its bylaws and rules of procedure, the commissioner of finance and administration or the appropriate chief fiscal officer shall have the new amount of such dues deducted from the compensation of employees who have completed an authorization form for membership dues deduction. The certified increase or decrease shall be effective on the first payroll occurring at least thirty (30) days after the receipt of such certification by the commissioner or the appropriate chief fiscal officer;

(5) Forms which authorize such deductions for the payment of membership dues shall not be larger than eight and one-half inches (8½") by eleven inches (11") nor smaller than three inches (3") by five inches (5");

(6) It is the responsibility of the employee association to prepare and deliver such forms to the payroll officers of the various state agencies;

(7) The commissioner or the appropriate chief fiscal officer shall provide to an employee association a complete listing of all employees who have authorized deductions pursuant to this section. The information compiled under this subsection (c) shall not be used by the commissioner or respective

chief fiscal officer for any other purpose except that described herein.

(d) Retired employees of the state of Tennessee may, in writing, authorize deductions to be made from their retirement allowance to be paid to any employee association qualified under subsection (a). No such retired employee shall be considered in determining the total number of state employees in the executive branch or in determining the membership in an employee association for the purposes of subdivision (a)(2).

(e) Any automatic deduction authorization form for the payment of membership dues filed with the various state agencies prior to May 24, 1984, which has not been revoked by the employee, shall be considered a valid authorization form for the purposes of this section, and the automatic payroll deduction from such employee's compensation shall be continued or shall resume immediately if such deductions have been stopped for reasons other than the employee's revocation.

(f) The procedures governing the payroll deduction of membership dues pursuant to this section shall be in accordance with regulations promulgated by the commissioner in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The procedures governing payroll deductions for the payment of membership dues in effect on June 1, 1983, shall be deemed fully and duly promulgated, except to the extent they conflict with this section, and shall remain in full force and effect unless altered or amended by the general assembly or the commissioner.

(g) If an employee association receiving membership dues by payroll deduction becomes joined or affiliated through merger or otherwise with another employee or labor organization, any member of the employee association may revoke such member's automatic deduction authorization form immediately or at any other time of such member's choosing by notifying the department of finance and administration or the appropriate chief fiscal officer that such member wishes to revoke such member's authorization.

8-25-204. Election of retirement system or optional retirement program — Time of election — Failure to elect — Transfer of membership.

(a) Notwithstanding any other law to the contrary, any individual who is exempt from the Fair Labor Standards Act (29 U.S.C. § 201 et seq.) and who is employed in a state-supported institution of higher education, including, but not limited to, the Tennessee colleges of applied technology, may elect membership either in the retirement system established in § 8-34-201 or in the optional retirement program established under this part. In all cases of doubt, the state treasurer shall determine whether the employee is eligible to participate in the optional retirement program.

(b) As used in this part, the term "retirement system" has the same meaning as in § 8-34-101.

(c) Each eligible employee who elects to participate in an optional retirement program rather than the retirement system shall make the election in the manner prescribed by the state treasurer and shall file the election with the state treasurer and with the institution where the employee is employed. Any such election shall be irrevocable.

(d) Any such eligible employee who is not already a member of the retirement system and who has not accumulated creditable service thereunder

as a member of a local retirement fund shall make this election on the employee's initial date of employment with a state-supported institution of higher education.

(e) Any member of the retirement system or any member of a local retirement fund having rights under the retirement system may elect to participate in the optional retirement program established under this part in lieu of participating in the retirement system while employed in a state-supported institution of higher education. Any such election shall become effective no later than the first day of the month following thirty (30) days' written notice to the retirement system and to the institution where the employee is employed. Such notification shall be made in a manner prescribed by the state treasurer.

(f) Any eligible employee who fails to make the election as prescribed in this section shall be a member of the retirement system.

(g) Notwithstanding any provision of this part or any other law to the contrary, any employee who, on or after January 1, 2005, attains either five (5) or more but less than six (6) years of creditable service in the optional retirement program, or five (5) or more but less than six (6) years of creditable service in the retirement system and the optional retirement program combined, shall have the option of transferring membership from the optional retirement program to the retirement system under the following terms and conditions:

(1) The employee is employed in a position covered by the retirement system;

(2) The election must be made in the manner prescribed by the state treasurer and filed with the state treasurer and the institution where the employee is employed by no later than the end of the calendar year following the year the employee completes five (5) years of creditable service;

(3) Any such transfer shall include both past and prospective membership;

(4) The transfer shall be irrevocable;

(5) The employee must pay to the retirement system a sum equal to twelve and sixty-five hundredths percent (12.65%) of the employee's earnable compensation during the period of the employee's membership in the optional retirement program, plus interest on the amount at the rate provided in § 8-37-214;

(6) Notwithstanding § 8-37-220, the payment required under this subsection (g) shall be made in a lump sum to the retirement system by no later than the end of the calendar year following the year the employee completes five (5) years of creditable service, and may be funded in whole or in part from amounts transferred from the employee's accounts in the optional retirement program, from other eligible retirement accounts, or from other funds available to the employee. For the purposes of this subdivision (g)(6), amounts transferred from an eligible retirement account shall have the same meaning as described in § 8-37-214(g)(1). Any difference between the payment required under this subsection (g) and the amount transferred from the optional retirement program or an eligible retirement account shall be paid to the retirement system within sixty (60) days following the transfer, but in any event no later than the end of the calendar year following the year the employee completes five (5) years of creditable service. Notwithstanding § 8-35-111 or any other law to the contrary, if the payment is not funded in

whole or in part from amounts transferred from the optional retirement program, the employee shall be permitted to retain ownership of the amounts without violating § 8-35-111;

(7) The employee shall have no rights, benefits, or privileges in the retirement system until the full amount of the payment required under this subsection (g) is received by the retirement system. In the event the employee fails to remit the full amount by the time specified in subdivision (g)(6), the employee shall irrevocably lose the employee's right to transfer membership from the optional retirement program to the retirement system; and

(8) All payments made under this subsection (g) shall be credited to the state accumulation fund pursuant to § 8-37-301 and not to the individual accounts of members in the members' fund.

(h) Any individual participating in the optional retirement program established under this part whose position is reclassified from exempt to non-exempt from the Fair Labor Standards Act (29 U.S.C. § 201 et seq.) after at least one (1) year of service in the exempt position shall maintain participation in the optional retirement program with respect to such non-exempt position.

8-25-205. Employer contributions.

(a)(1) The employer shall make employer contributions at the rate of ten percent (10%) of each eligible employee's earnable compensation, plus one percent (1%) of the part of the eligible employee's earnable compensation in excess of the employee's covered compensation.

(2) The amount of salary taken into account in determining such contributions shall not exceed the maximum dollar limitation imposed by Section 401(a)(17) of the Internal Revenue Code (26 U.S.C. § 401(a)(17)). For any person becoming a participant in an optional retirement program before July 1, 1996, the dollar limitation under Section 401(a)(17) of the Internal Revenue Code shall not apply to the extent the amount of compensation that is allowed to be taken into account under the plan would be reduced below the amount that was allowed to be taken into account under the plan as in effect on July 1, 1993.

(b) [Deleted by 2019 amendment.]

(c) [Deleted by 2018 amendment.]

8-27-210. First responders killed in line of duty — Coverage of surviving spouse and dependents. [Effective until January 1, 2020. See the version effective on January 1, 2020.]

(a) As used in this section, "first responder" means paid, full-time law enforcement officers and firefighters who are employed by the state or a local government in this state. "First responder" also includes capitol police officers and employees of the Tennessee highway patrol, Tennessee bureau of investigation, and Tennessee wildlife resource agency.

(b) The state insurance committee may, in approving a health insurance plan that covers first responders, offer or continue to provide health insurance benefits to the surviving spouse and children, including any unborn child, of a first responder killed in the line of duty for a period not to exceed two (2) years after the death of the first responder.

8-27-210. First responders killed in line of duty — Coverage of surviving spouse and dependents. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) As used in this section, “first responder” means paid, full-time law enforcement officers and firefighters who are employed by the state or a local government in this state. “First responder” also includes capitol police officers, employees of the Tennessee highway patrol, Tennessee bureau of investigation, and Tennessee wildlife resources agency, and park rangers employed by the division of parks and recreation in the department of environment and conservation.

(b) The state insurance committee may, in approving a health insurance plan that covers first responders, offer or continue to provide health insurance benefits to the surviving spouse and children, including any unborn child, of a first responder killed in the line of duty for a period not to exceed two (2) years after the death of the first responder.

8-27-507. Recovery of medical payment — Third party insurance benefits — Information identifying persons covered by third parties for medical services — Subrogation interest in personal injury case.

(a)(1) A county shall not recover a medical payment paid to, or on behalf of, an insured under a plan authorized by this part unless the medical payment has been incorrectly paid, or, unless the insured recovers or is entitled to recover from a third party reimbursement for all or part of the costs of care or treatment for the injury or illness for which the medical payment is paid.

(2) The county is subrogated to all rights of recovery, for the cost of care or treatment for the injury or illness for which medical payment is provided, contractual or otherwise, of the insured against any person.

(3) The county shall not withdraw or reduce payments to a provider of the medical services in order to recover funds obtained by an insured from third parties for medical services rendered by the provider if these funds were obtained without the knowledge or direct assistance of the provider.

(4) If the county asserts its right to subrogation, then the county must notify the insured, in language understandable to the insured, of the insured’s rights of recovery against third parties and that the insured should seek the advice of an attorney regarding those rights of recovery to which the insured may be entitled.

(5) The county may recover from the insured any benefits incorrectly paid, while living, as a debt due to the county and, upon the insured’s death, as a claim classified with taxes having preference under the laws of this state.

(b)(1) Upon accepting a medical payment pursuant to a plan authorized by this part, an insured is deemed to have made an assignment to the county of the right of third party insurance benefits to which the insured may be entitled.

(2) Failure of the insured to reimburse the county for a medical payment received from a third party insurance benefit received as a result of the illness or injury from which the medical payment was paid may be grounds for removing the insured from future participation in the plan authorized by this part.

(3) The county, or an insurer contracting with the county, shall not remove an insured from participation in the plan authorized by this part as provided under subdivision (b)(2) until the county or insurer provides appropriate advance notice to the insured.

(4) The county or insurer shall not prevent a provider from receiving payment for services already rendered to an insured even if the insured is removed from participation in the plan authorized by this part as provided under subdivision (b)(2). However, this subdivision (b)(4) does not require an insurer to pay benefits to the county that has already been paid to the insured.

(c)(1) For purposes of this subsection (c), “third party for medical services” or “third parties” includes, but is not limited to, a health and liability insurer, an administrator of an ERISA plan, an employee welfare benefit plan, a workers’ compensation plan, CHAMPUS, medicare, and other parties that are by statute, contract, or agreement, legally responsible for payment of a claim for a healthcare item or service.

(2)(A) The county is authorized to require certain information identifying persons covered by third parties for medical services. As a condition of doing business in this state or providing coverage to residents of this state, and subject to subdivision (c)(3), a third party for medical services shall, upon request from the county, electronically provide full eligibility files that contain information to determine the period an insured may be or may have been covered by the third party. The eligibility files must also include the nature of the coverage that is or was provided by the third party; the name, address, date of birth, social security number, group number, and identifying number of the plan; and the effective and termination dates for the coverage.

(B) No third party is liable to a policyholder for proper release of this information to the county.

(C) The third party shall provide the information described in subdivision (c)(2)(A) upon receipt of written request from the county, with the third party establishing confidentiality requirements for the information.

(3) Third parties shall respond to a written inquiry by the county regarding a claim for payment for any healthcare item or service that is submitted not later than three (3) years after the date of the provision of the healthcare item or service.

(4) Third parties shall agree to respond to the request for payment, by providing payment on the claim, written request for additional information with which to process the claim, or written reason for denial of the claim, within ninety (90) working days after receipt of written proof of loss or claim for payment for healthcare services provided to an insured. Notwithstanding title 56, a failure to pay or deny a claim within one hundred forty (140) days after receipt of the claim constitutes a waiver of any objection to the claim and an obligation to pay the claim.

(d)(1) Before the entry of the judgment or settlement in a personal injury case, the plaintiff’s attorney shall notify and contact the county in writing by facsimile or certified mail return receipt requested in order to determine if the county has a subrogation interest. Notice by the plaintiff’s attorney, at a minimum, must provide the following information: the full name of the plaintiff’s client; the client’s date of birth; the client’s social security number, if known; the client’s identification number; and the date the client’s claim arose. Notice by the plaintiff’s attorney must be consistent with this

subdivision (d)(1) in order to be considered valid.

(2) Within sixty (60) days of receipt of the notice described in subdivision (d)(1), the county having a subrogation interest shall respond to the plaintiff's attorney in writing via facsimile or certified mail return receipt requested with either the amount of the subrogation interest or notice to the plaintiff's attorney that additional time is necessary in order to determine the amount of the subrogation interest, but in no event must a response containing the amount of the subrogation interest exceed one hundred twenty (120) days. The plaintiff's attorney shall then inform the court regarding the results of the attorney's notice, if any. If no specific amount is claimed within the period specified in subdivision (d)(2), then the subrogation is extinguished and disbursements may be made without recourse upon the plaintiff or the plaintiff's attorney.

(3) If the plaintiff's attorney received a timely response from the county, but the amount of the subrogation interest remains in dispute, then the trial judge may hold a hearing in accordance with subsection (f). After trial and at the time of the entry of the judgment or settlement in a case in which the county has a subrogation interest under this section, it is the responsibility of the trial judge to calculate the amount of the subrogation interest and incorporate the court's findings concerning the subrogation interest in the final judgment or settlement.

(4) The trial judge shall base the gross amount of the subrogation interest upon the verdict at trial concerning medical expenses and evidence introduced after the trial about the total sum of moneys paid by the county for medical expenses for injuries arising from the incident that is the basis of the action. The trial judge shall reduce the gross amount of the subrogation interest by one (1) or more of the following factors, as applicable:

(A) To the extent that the plaintiff is partially at fault in the incident giving rise to the litigation, the subrogation interest is reduced by the percentage of fault assessed against the plaintiff;

(B) To the extent that the finder of fact allocated fault to a person who was immune from suit, the subrogation interest is reduced by the percentage of fault assessed against the immune person;

(C) To the extent that the finder of fact allocates fault to a governmental entity that has its liability limited under state law, and the fault of the entity, when multiplied by the total dollar value of the damages found by the finder of fact, exceeds the amount of judgment that can be awarded against the entity, the subrogation interest is reduced proportionately by a percentage derived by dividing the uncollectable portion of the judgment against the governmental entity by the total damages awarded; or

(D) To the extent that the finder of fact allocated fault to a person that the plaintiff did not sue, the subrogation interest is reduced by the percentage of fault assessed against the nonparty.

(5) After the calculations described in subdivision (d)(4) are performed, the trial judge shall reduce the subrogation interest pro rata by the amount of reasonable attorneys' fees and litigation costs incurred by the plaintiff in obtaining the recovery.

(e) The amount determined after performance of the calculations in subsection (d) is the net subrogation interest. If the plaintiff or plaintiff's attorney collects the judgment, each has the obligation to promptly remit the net subrogation interest, and attorneys' fees and costs to any counsel employed by

the county, as required by the final judgment. If the plaintiff and the plaintiff's attorney collect only a portion of the final judgment, each has the obligation to promptly remit a pro rata share of the net subrogation interest, and attorneys' fees and costs to any counsel employed by the county, as required by the final judgment. If the plaintiff or the plaintiff's attorney later collect additional moneys against the judgment, there is a continuing obligation on both of them to remit a pro rata share of the moneys collected as required by the final judgment.

(f) If the case between the plaintiff and the defendant is settled before trial and the parties and the municipal corporation or special school district are unable to reach an agreement on the amount of the subrogation interest, then the trial judge must hold a hearing to determine the gross and net subrogation interests, taking into account the criteria listed in subsection (d) and the likelihood of collecting any judgment against parties determined to be at fault. No expert foundation is required to prove any claimed damages. Any aggrieved party may appeal the court's decision.

(g) It is the intention of the general assembly that subsections (d)–(f) be used in lieu of application of the “made whole” doctrine for any recovery authorized under this section. Subsections (d)–(f) apply to cases that have been settled when no lawsuit has been filed.

8-27-608. Recovery of medical payment — Third party insurance benefits — Information identifying persons covered by third parties for medical services — Subrogation interest in personal injury case.

(a)(1) A municipal corporation or special school district shall not recover a medical payment paid to, or on behalf of, an insured under a plan authorized by this part unless the medical payment has been incorrectly paid, or, unless the insured recovers or is entitled to recover from a third party reimbursement for all or part of the costs of care or treatment for the injury or illness for which the medical payment is paid.

(2) The municipal corporation or special school district is subrogated to all rights of recovery, for the cost of care or treatment for the injury or illness for which medical payment is provided, contractual or otherwise, of the insured against any person.

(3) The municipal corporation or special school district shall not withdraw or reduce payments to a provider of the medical services in order to recover funds obtained by an insured from third parties for medical services rendered by the provider if these funds were obtained without the knowledge or direct assistance of the provider.

(4) If the municipal corporation or special school district asserts its right to subrogation, then the municipal corporation or special school district must notify the insured, in language understandable to the insured, of the insured's rights of recovery against third parties and that the insured should seek the advice of an attorney regarding those rights of recovery to which the insured may be entitled.

(5) The municipal corporation or special school district may recover from the insured any benefits incorrectly paid, while living, as a debt due to the municipal corporation or special school district and, upon the insured's death, as a claim classified with taxes having preference under the laws of

this state.

(b)(1) Upon accepting a medical payment pursuant to a plan authorized by this part, an insured is deemed to have made an assignment to the municipal corporation or special school district of the right of third party insurance benefits to which the insured may be entitled.

(2) Failure of the insured to reimburse the municipal corporation or special school district for a medical payment received from a third party insurance benefit received as a result of the illness or injury from which the medical payment was paid may be grounds for removing the insured from future participation in the plan authorized by this part.

(3) The municipal corporation or special school district, or an insurer contracting with the municipal corporation or special school district, shall not remove an insured from participation in the plan authorized by this part as provided under subdivision (b)(2) until the municipal corporation or special school district or insurer provides appropriate advance notice to the insured.

(4) The municipal corporation or special school district, or insurer, shall not prevent a provider from receiving payment for services already rendered to an insured even if the insured is removed from participation in the plan authorized by this part as provided under subdivision (b)(2). However, this subdivision (b)(4) does not require an insurer to pay benefits to the municipal corporation or special school district that has already been paid to the insured.

(c)(1) For purposes of this subsection (c), "third party for medical services" or "third parties" includes, but is not limited to, a health and liability insurer, an administrator of an ERISA plan, an employee welfare benefit plan, a workers' compensation plan, CHAMPUS, medicare, and other parties that are by statute, contract, or agreement, legally responsible for payment of a claim for a healthcare item or service.

(2)(A) The municipal corporation or special school district is authorized to require certain information identifying persons covered by third parties for medical services. As a condition of doing business in this state or providing coverage to residents of this state, and subject to subdivision (c)(3), a third party for medical services shall, upon request from the municipal corporation or special school district, electronically provide full eligibility files that contain information to determine the period an insured may be or may have been covered by the third party. The eligibility files must also include the nature of the coverage that is or was provided by the third party; the name, address, date of birth, social security number, group number, and identifying number of the plan; and the effective and termination dates for the coverage.

(B) No third party is liable to a policyholder for proper release of this information to the municipal corporation or special school district.

(C) The third party shall provide the information described in subdivision (c)(2)(A) upon receipt of written request from the municipal corporation or special school district, with the third party establishing confidentiality requirements for the information.

(3) Third parties shall respond to a written inquiry by the municipal corporation or special school district regarding a claim for payment for any healthcare item or service that is submitted not later than three (3) years after the date of the provision of the healthcare item or service.

(4) Third parties shall agree to respond to the request for payment, by providing payment on the claim, written request for additional information with which to process the claim, or written reason for denial of the claim, within ninety (90) working days after receipt of written proof of loss or claim for payment for healthcare services provided to an insured. Notwithstanding title 56, a failure to pay or deny a claim within one hundred forty (140) days after receipt of the claim constitutes a waiver of any objection to the claim and an obligation to pay the claim.

(d)(1) Before the entry of the judgment or settlement in a personal injury case, the plaintiff's attorney shall notify and contact the municipal corporation or special school district in writing by facsimile or certified mail return receipt requested in order to determine if the municipal corporation or special school district has a subrogation interest. Notice by the plaintiff's attorney, at a minimum, must provide the following information: the full name of the plaintiff's client; the client's date of birth; the client's social security number, if known; the client's identification number; and the date the client's claim arose. Notice by the plaintiff's attorney must be consistent with this subdivision (d)(1) in order to be considered valid.

(2) Within sixty (60) days of receipt of the notice described in subdivision (d)(1), the municipal corporation or special school district having a subrogation interest shall respond to the plaintiff's attorney in writing via facsimile or certified mail return receipt requested with either the amount of the subrogation interest or notice to the plaintiff's attorney that additional time is necessary in order to determine the amount of the subrogation interest, but in no event must a response containing the amount of the subrogation interest exceed one hundred twenty (120) days. The plaintiff's attorney shall then inform the court regarding the results of the attorney's notice, if any. If no specific amount is claimed within the period specified in subdivision (d)(2), then the subrogation is extinguished and disbursements may be made without recourse upon the plaintiff or the plaintiff's attorney.

(3) If the plaintiff's attorney received a timely response from the municipal corporation or special school district, but the amount of the subrogation interest remains in dispute, then the trial judge may hold a hearing in accordance with subsection (f). After trial and at the time of the entry of the judgment or settlement in a case in which the municipal corporation or special school district has a subrogation interest under this section, it is the responsibility of the trial judge to calculate the amount of the subrogation interest and incorporate the court's findings concerning the subrogation interest in the final judgment or settlement.

(4) The trial judge shall base the gross amount of the subrogation interest upon the verdict at trial concerning medical expenses and evidence introduced after the trial about the total sum of moneys paid by the municipal corporation or special school district for medical expenses for injuries arising from the incident that is the basis of the action. The trial judge shall reduce the gross amount of the subrogation interest by one (1) or more of the following factors, as applicable:

(A) To the extent that the plaintiff is partially at fault in the incident giving rise to the litigation, the subrogation interest is reduced by the percentage of fault assessed against the plaintiff;

(B) To the extent that the finder of fact allocated fault to a person who was immune from suit, the subrogation interest is reduced by the

percentage of fault assessed against the immune person;

(C) To the extent that the finder of fact allocates fault to a governmental entity that has its liability limited under state law and the fault of the entity, when multiplied by the total dollar value of the damages found by the finder of fact, exceeds the amount of judgment that can be awarded against the entity, the subrogation interest is reduced proportionately by a percentage derived by dividing the uncollectable portion of the judgment against the governmental entity by the total damages awarded; or

(D) To the extent that the finder of fact allocated fault to a person that the plaintiff did not sue, the subrogation interest is reduced by the percentage of fault assessed against the nonparty.

(5) After the calculations described in subdivision (d)(4) are performed, the trial judge shall reduce the subrogation interest pro rata by the amount of reasonable attorneys' fees and litigation costs incurred by the plaintiff in obtaining the recovery.

(e) The amount determined after performance of the calculations in subsection (d) is the net subrogation interest. If the plaintiff or plaintiff's attorney collects the judgment, each has the obligation to promptly remit the net subrogation interest, and attorneys' fees and costs to any counsel employed by the municipal corporation or special school district, as required by the final judgment. If the plaintiff and the plaintiff's attorney collect only a portion of the final judgment, each has the obligation to promptly remit a pro rata share of the net subrogation interest, and attorneys' fees and costs to any counsel employed by the municipal corporation or special school district, as required by the final judgment. If the plaintiff or the plaintiff's attorney later collect additional moneys against the judgment, there is a continuing obligation on both of them to remit a pro rata share of the moneys collected as required by the final judgment.

(f) If the case between the plaintiff and the defendant is settled before trial and the parties and the municipal corporation or special school district are unable to reach an agreement on the amount of the subrogation interest, then the trial judge must hold a hearing to determine the gross and net subrogation interests, taking into account the criteria listed in subsection (d) and the likelihood of collecting any judgment against parties determined to be at fault. No expert foundation is required to prove any claimed damages. Any aggrieved party may appeal the court's decision.

(g) It is the intention of the general assembly that subsections (d)–(f) be used in lieu of application of the “made whole” doctrine for any recovery authorized under this section. Subsections (d)–(f) apply to cases that have been settled when no lawsuit has been filed.

8-34-101. Definitions for chapters 34-37.

As used in chapters 34-37 of this title, unless the context otherwise requires:

(1) “Accumulated contributions” means the sum of all the amounts deducted from the compensation of a member, together with any amount transferred to the account of the member established pursuant to chapters 34-37 of this title from the respective account of the member under one (1) or more of the superseded systems, with interest thereon, as provided in § 8-37-307;

(2) “Actuarial equivalent” means a benefit of equal value when computed at regular interest upon the basis of the mortality tables last adopted for

such purpose by the board of trustees;

(3) "Attorney general" means the attorney general and reporter and any assistant thereto by whatever name known, any district attorney general and any assistant thereto by whatever name called, and any officer or full-time employee of the general assembly or any committee thereof established by statute, who is duly licensed to practice law in Tennessee, whose duty it is to provide facilities for drafting bills or to assist individual legislators in drafting bills or who renders legal advice and services to the members of the general assembly or committees thereof;

(4)(A) "Average final compensation" means the average annual earnable compensation of a member during the five (5) consecutive years of the member's creditable service affording the highest such average, or during all of the years in the member's creditable service if less than five (5) years;

(B)(i) The annual earnable compensation received after June 30, 1981, for any member covered by the noncontributory provisions of the retirement system on July 1, 1981, or upon the effective date of the noncontributory provisions for any member covered after July 1, 1981, shall be increased by three and six-tenths percent (3.6%) for the purpose of computing the average final compensation. Such increases in the annual earnable compensation shall be discontinued for earnable compensation received after June 30, 1991. However, such increases in the annual earnable compensation received after June 30, 1991, shall continue for such members until June 30, 1998, unless such members are employees of employers participating in the retirement system pursuant to chapter 35 of this title. The governing body of any such employer may at its discretion authorize and accept the liability for such continued increases by resolution;

(ii) Notwithstanding subdivision (4)(B)(i), effective July 1, 1998, such increases in the annual earnable compensation shall continue indefinitely for any member covered by the noncontributory provisions of the retirement system on July 1, 1981, or upon the effective date of the noncontributory provisions for any member covered after July 1, 1981, unless such members are employees of employers participating in the retirement system pursuant to chapter 35 of this title. The governing body of any such employer may at its discretion authorize and accept the liability for such continued increases by resolution;

(iii) This subdivision (4) does not apply to a noncontributory prior class member of the superseded attorneys general retirement system who is a district attorney general, the executive director of the district attorneys general conference or a full-time assistant district attorney general;

(C) Average final compensation shall not include more than five (5) longevity payments to a member pursuant to § 8-23-206;

(5) "Beneficiary" means any person, persons or institution receiving a retirement allowance or other benefit as provided in chapters 34-37 of this title;

(6) "Board of trustees" or "board" means the board provided for in part 3 of this chapter;

(7) "Commissioner" means any person in office as a member of the public service commission, as prescribed by title 65, chapter 1, prior to June 30, 1996;

(8) “County judge” means any person who is, or when such office existed was, a judge of a general sessions court, trial justice court, county chair, county judge, probate judge, or judge of a juvenile and/or domestic relations court, and whose compensation for such judicial service is paid wholly by a county of the state, or any person who is a county attorney who receives regular monthly or quarterly compensation from a county of the state, or any county manager or county administrator who receives regular monthly or quarterly compensation from a county of the state; provided, that no county manager or county administrator shall be eligible for membership if a county judge, chair of the quarterly county court or county mayor from that county is a member;

(9)(A) “County official” means a county clerk, a clerk of a circuit court, a criminal court, or a probate court, a clerk and master of a chancery court, a clerk of a general sessions court where such general sessions court has an independent clerk who serves such court only, a register of deeds, a county trustee, a sheriff, a county road superintendent elected by a county legislative body, by a county road commission or commissioners, or by popular vote, and an assessor of property, any county commissioner elected by popular vote, serving in a county having a county commission form of government. In the event a consolidation or reorganization of any or all of such courts is provided by constitutional amendments or by act of the general assembly or both, “county official” also means a clerk of any such consolidated or reorganized court;

(B) “County official” also includes any person filling the position of county mayor;

(10)(A) “Covered compensation” means, with respect to any calendar year, the amount of a member’s earnable compensation subject to contributions under the Federal Insurance Contributions Act (26 U.S.C. §§ 3101-3126);

(B) The amount of nontaxable benefits elected in lieu of cash wages under a cafeteria plan, as permitted by § 125 of the Internal Revenue Code of 1986 (26 U.S.C. § 125), shall be included in computing the member’s covered compensation. In no event shall the total amount included in covered compensation exceed the maximum social security wage base;

(11) “Creditable service” means prior service plus membership service, as provided in part 6 of this chapter;

(12) “Date of establishment” means the date as of which the retirement system is established as provided in § 8-34-201;

(13) “Disability” or “disabled” means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of not less than twelve (12) months. This means that the condition must be both totally and permanently disabling;

(14)(A) “Earnable compensation” means the compensation payable to a member for services rendered to an employer;

(B)(i) “Earnable compensation” includes, but is not limited to, any bonus or incentive payment; provided, that:

(a) Such payment is authorized by legislation passed by the general assembly and that such legislation provides that the payment shall be included as earnable compensation for retirement purposes and is not made for the purpose of increasing a member’s retirement benefit or

inducing a member to retire; or

(b) Such payment is authorized by resolution legally adopted and approved by the chief governing body of an employer participating in the retirement system pursuant to chapter 35, part 2 of this title and that the resolution provides that the payment shall be included as earnable compensation for retirement purposes and is not made for the purpose of increasing a member's retirement benefit or inducing a member to retire. All employees generally, or all employees in a broad class or broad group of employees must be given the opportunity to qualify for the bonus or incentive payment under similar terms and conditions. If the bonus or incentive payment plan only applies to a class or group of employees, a distinct and reasonable basis must exist for offering the plan to the particular class or group of employees;

(ii) "Earnable compensation" also includes the total amount for which an employee may choose to receive cash or a combination of cash and benefits under a cafeteria plan as permitted by § 125 of the Internal Revenue Code of 1986. "Earnable compensation" shall also include for any general employee in the executive, legislative, or judicial branch of government any compensation paid under § 3-1-106(f) and any non-cash compensation falling under Internal Revenue Service Regulation Section 1.61-2T(d) as such section exists on July 17, 2002, if such compensation was includable in gross income for federal income tax purposes and was subject to contributions under the provisions of the Federal Insurance Contributions Act;

(C) In cases where compensation includes maintenance, the board of trustees shall fix the value of that part of the compensation not paid in money;

(D) Notwithstanding any other law to the contrary, "earnable compensation" does not include compensation paid to a teacher employed in a state-supported institution of higher education for performing extra services for the institution that exceeds twenty-five percent (25%) of the teacher's base compensation. For purposes of this subdivision (14), "extra services" means any duties other than summer school or regular duties;

(E) Notwithstanding this subdivision (14) or any other law to the contrary, "earnable compensation" does not include compensation that exceeds the maximum dollar limitation imposed by § 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases in accordance with § 401(a)(17)(B) of the Internal Revenue Code (26 U.S.C. § 401(a)(17)(B)). For any person becoming a member of the retirement system before July 1, 1996, the dollar limitation under § 401(a)(17) of the Internal Revenue Code (26 U.S.C. § 401(a)(17)), shall not apply to the extent the amount of compensation which is allowed to be taken into account under the system would be reduced below the amount which was allowed to be taken into account under the system as in effect on July 1, 1993;

(F) In all cases of doubt, the retirement system shall determine whether a certain payment is includable as earnable compensation;

(15) "Education television association" means a nonprofit educational organization which has a contract with the state department of education through its television division to provide education television service;

(16) "Employer" means:

(A) The state or any department, commission, institution, board or agency of the state government by which a member is paid, with respect to members in its employ;

(B) The state, the county board of education, the city board of education, the state board of education, the board of trustees of the University of Tennessee, the board of trustees of other educational institutions and agencies supported by and under the control of the state, or any other agency of and within the state by which a teacher is paid, with respect to teachers in its employ;

(C) Any political subdivision of the state or educational cooperative participating in the retirement system pursuant to chapter 35, part 2 of this title or the Tennessee County Services Association, with respect to members in its employ;

(D) Any county of the state with respect to members in its employ;

(E) Any other association which was a member of one (1) of the superseded systems;

(F) A contractor that manages and operates a mental health institute under this chapter; or

(G) A contractor that manages and operates a blind workshop pursuant to § 71-4-608;

(17) “Firefighter” means a person in the employ of a political subdivision participating under chapter 35, part 2 of this title who is a member of the fire department of such political subdivision, and is trained in firefighting and actively engaged in such work or subject to call for such services, providing such person’s primary livelihood is derived from such work;

(18) “General employee” means any person who is a state official, including legislative officials elected by the general assembly, or who is employed in the service of, and whose compensation is payable in whole or in part by, the state, including employees under supervision of the state whose compensation is paid, in whole or in part, from federal or other funds, or any person in the employ of a political subdivision participating under chapter 35, part 2 of this title, or of the Tennessee County Services Association, but does not include any teacher, state police officer, wildlife officer, firefighter, police officer, state judge, county judge, attorney general, governor, or county official or public service commissioner, or any person performing services on a contractual or percentage basis;

(19) “In-service” means a member who has not retired, has not been refunded and is within one hundred fifty (150) days of such member’s last paid day of employment. The last paid day of employment for a teacher shall be the last scheduled working day of the normal school year or the last day of employment if prior to the end of the school year;

(20) “Internal Revenue Code” means the Internal Revenue Code of 1986, codified in United States Code, title 26, as amended;

(21) “Limitation year” means, for testing purposes under § 415 of the Internal Revenue Code (26 U.S.C. § 415), the calendar year;

(22) “Local retirement fund” means any teachers’ retirement fund or other arrangement for payment of retirement benefits to teachers, except this retirement system, supported wholly or in part by contributions made by an employer as defined by chapters 34-37 of this title;

(23) “Medical advisors” means the physicians, companies, or organizations provided for in part 4 of this chapter;

(24) "Member" means any person included in the membership of the retirement system, as provided in chapter 35, part 1 of this title;

(25) "Member annuity" means annual payments for life derived from the accumulated contributions of the member;

(26) "Membership service" means service rendered while a member of the retirement system;

(27) "Minor" has the meaning set forth in § 1-3-105, except when a contrary intention is manifest;

(28) "Part-time employee" means any person employed by the state or a political subdivision who renders less than a full day of service per working day or less than a full week of service per working week. Any employee falling into either of the above categories shall be considered part-time unless the law otherwise provides. "Part-time employee" does not include employees who are students, seasonal or temporary employees under twenty-five (25) years of age, temporary employees in institutions of higher education, or substitute teachers, unless such substitutes are under contract and scheduled to work the same time as a regular teacher. "Part-time employee" includes any interim teacher who is employed on a temporary basis to teach for a regular teacher who is on unpaid leave;

(29) "Physical or mental impairment" means one which is medically determinable. This means that the condition should be one that can be determined by a physician. The physical or mental impairment must be the primary reason for the individual's inability to engage in substantial gainful activity;

(30) "Plan year" means the fiscal year commencing July 1;

(31) "Police officer" means a person in the employ of a political subdivision participating under chapter 35, part 2 of this title who is a member of the police department of such political subdivision and is trained in police work and actively engaged in such work;

(32) "Prior class member" means a member who, on the day preceding the date of establishment, shall have been a member of a superseded system and who elects to remain covered by the benefit and contribution provisions of the superseded system, or who fails to elect to become covered by the benefit and contribution provisions of the retirement system applicable to new employees, as the case may be, in accordance with chapter 35, part 1 of this title;

(33) "Prior service" means service rendered prior to the date of membership in the retirement system for which credit was given under the terms of one (1) or more of the superseded systems as provided in part 6 of this chapter;

(34) "Public school" means any school conducted within the state under the authority and supervision of a duly elected or appointed city or county school board, and any educational institution supported by and under the control of the state;

(35) "Regular interest" means interest at such rate or rates compounded annually as may be set from time to time by the board of trustees in accordance with § 8-34-505;

(36) "Retirement" means withdrawal from membership with a retirement allowance granted under chapters 34-37 of this title;

(37)(A) "Retirement allowance" means the sum of the member annuity and the state annuity. All retirement allowances shall be payable in equal

monthly installments, which shall cease with the month in which death occurs, unless otherwise specifically provided in this section; provided, that if the retirement allowance is less than ten dollars (\$10.00) per month, it shall be paid in a lump sum of equivalent actuarial value. If the entire monthly retirement allowance is ten dollars (\$10.00) or more per month but less than seventy-five dollars (\$75.00) per month, it shall be paid in a lump sum of equivalent actuarial value unless the recipient thereof files with the retirement division an election to receive the benefit in equal monthly installments pursuant to this subdivision (34). To be effective, the recipient must file the election by no later than sixty (60) calendar days after the recipient's receipt of the lump sum payment and the recipient must return any such payment to the retirement division. Notwithstanding any provision of this subdivision (34) to the contrary, any retirement allowance that equals ten dollars (\$10.00) or more per month but less than fifty dollars (\$50.00) per month shall be paid in a lump sum of equivalent actuarial value if such allowance is payable on account of a person who became a member of the retirement system on or after July 1, 2001;

(B) Notwithstanding subdivision (34)(A) to the contrary, any retirement allowance that equals ten dollars (\$10.00) or more per month but less than seventy-five dollars (\$75.00) per month shall be paid in a lump sum of equivalent actuarial value if such allowance is payable on account of a person who became a member of the retirement system on or after July 1, 2013;

(38) "Retirement system" means the Tennessee consolidated retirement system as defined in §§ 8-34-201, 8-34-202;

(39) "Service" means service as a general employee, a teacher, a state police officer, a wildlife officer, a firefighter, a police officer, a state judge, a county judge, an attorney general, a commissioner or a county official which is paid for by an employer, and also includes service for which a former member of the general assembly is entitled to under former §§ 3-401 and 3-406; provided, that such member received compensation for such service;

(40) "Service retirement date" means the date on which a member first becomes eligible for a service retirement allowance, or would first become eligible for a service retirement allowance if the member were to remain in service until such date, as provided in §§ 8-36-201 — 8-36-204 or §§ 8-36-301 — 8-36-304;

(41) "Social security integration level" means, with respect to the calendar year in which a member retires, the average annual amount of compensation with respect to which old age and survivors benefits would be provided under Title II of the Federal Social Security Act (42 U.S.C. §§ 401-425), for a male employee attaining sixty-five (65) years of age in such calendar year, computed as though for each year prior to such calendar year annual compensation is at least equal to the maximum amount of annual earnings subject to contributions under the Federal Insurance Contributions Act. Such average annual amount of compensation shall be rounded to the nearest multiple of six hundred dollars (\$600);

(42) "State" means the state of Tennessee;

(43) "State annuity" means annual payments for life derived from contributions by an employer;

(44) “State judge” means any person in office as a judge of a court of record in this state, whose salary for the judge’s judicial position has been paid during the period of the judge’s service wholly from the treasury of the state, including the administrative director of the courts;

(45) “State police officer” means any commissioned member of the department of safety, and any agent of the Tennessee bureau of investigation;

(46) “Student” means any person enrolled in a course of study in a school or in a post-secondary educational institution who as a condition of such enrollment is employed in a full-time position. However, “student” does not include any person who is otherwise eligible for membership in the retirement system in accordance with § 8-35-101(a);

(47)(A) “Substantial gainful activity” means the performance of significant duties over a reasonable period of time of work for remuneration or profit or in work of a type generally performed for remuneration or profit. Work which results in earnings considered by the law or regulations governing the social security administration to be substantial for disability recipients from that system shall be considered to be substantial gainful employment in this system; and

(B) “Significant duties” means that the duties are useful in the accomplishment of a job or the operation of a business but also that they have a degree of economic value;

(48) “Superseded system” means, where applicable, the Tennessee state retirement system, the Tennessee teachers’ retirement system, the Tennessee judges’ retirement system, the retirement system for county paid judges of Tennessee, the attorneys general retirement system of Tennessee, the public service commissioners’ retirement system, and the Tennessee retirement system for county officials, any one (1) of them, or any combination thereof;

(49) “Teacher”:

(A) Means any person employed in a public school, as a teacher, librarian, principal, superintendent or chief administrative officer of a public school system, administrative officer of a department of education, a supervisor of teachers, a reserve officer training corps (ROTC) instructor, or any other position whereby the state requires the employee to be certificated as a teacher, or licensed as a nurse, physical therapist, or occupational therapist in a public school; provided, that any teacher who has taught in the public schools for a period of at least one (1) year who transfers to a position within the Tennessee public school system that does not require a teacher’s certificate shall continue participation in the retirement system as a teacher;

(B) Does not include a physical therapist or an occupational therapist employed with the Metropolitan Nashville Public Schools District; and

(C) Includes any person who is employed in a public school on or after July 1, 1972, as a guidance counselor but who is not retired as of July 1, 2019;

(50) “Temporary employment” means any general employee can be considered as a temporary employee for a period not to exceed six (6) months before becoming eligible for membership in the retirement system, except as provided in § 8-35-107(b);

(51) “Transferred Class A member” means a member who on the day preceding the date of establishment shall have been a Class A member of the Tennessee teachers’ retirement system or the Tennessee state retirement

system and who is not a prior class member;

(52) "Transferred Class B member" means a member who on the day preceding the date of establishment shall have been a Class B member of the Tennessee teachers' retirement system or the Tennessee state retirement system and who is not a prior class member; and

(53) "Wildlife officer" means any commissioned employee of the wildlife resources agency engaged in law enforcement activities on a day-to-day basis.

8-34-503. Mortality and service tables — Sexennial actuarial investigation.

(a) Immediately after the establishment of the retirement system, the actuary shall recommend to the board of trustees, and the board shall adopt, mortality and service tables for use in all calculations in connection with the retirement system.

(b) At least once in each six-year period, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system, and taking into account the results of such investigation, the board of trustees shall adopt for the retirement system such mortality, service, and other tables as are deemed necessary. The board of trustees shall begin using the tables on July 1 of the year following the action of the board of trustees.

8-34-604. Sick leave as creditable service.

(a) Upon retirement, any employee of the state who has accumulated sick leave under chapter 50, part 8 of this title, or any teacher who has accumulated sick leave under § 49-5-710, or any state university and community college system or University of Tennessee employee member who has accumulated sick leave to an extent not exceeding that sick leave provided under chapter 50, part 8 of this title, shall be credited with such accumulated sick leave as creditable service at the rate specified in subsection (b); provided, that:

(1) The last employing department or agency employer shall certify in the manner prescribed by the retirement system the number of unused accumulated sick leave days to the credit of such member at the time of retirement;

(2) The employer shall certify that the accrued sick leave claimed is substantiated by records of the employer's agency compiled during the course of employment for which the leave was earned and not from records compiled solely for purposes of establishing retirement credit; and

(3) Employee members of the state university and community college system and the University of Tennessee shall receive no more retirement credit for such accumulated sick leave than any other state employee, and shall not be credited with such leave as creditable service at a rate exceeding twelve (12) days per year of service.

(b) Each twenty (20) days of accumulated sick leave shall equal a month of retirement credit, or any time less than twenty (20) days, a fractional part thereof. Any teacher or education agency employee who renders a school year of service that is less than twelve (12) full months is nevertheless entitled to receive credit for unused accumulated sick leave at retirement. The amount of such credit shall be proportionate to twelve (12) months divided by the number

of months in the school year for that position. The number of months scheduled to work per year during the majority of the member's last three (3) years of service shall be used to establish whether the retiring member is a nine-month, ten-month, eleven-month or twelve-month employee for purposes of this section.

(c) The governing body of any employer participating in the retirement system pursuant to chapter 35, part 2 of this title may authorize its employees who have unused accumulated sick leave at retirement to be credited with such accrued leave pursuant to this section. Before any such credit is granted, the governing body must pass a resolution authorizing the credit and accepting the liability therefor.

(d) Any retiree who returns to service and again becomes a member pursuant to § 8-36-802, and whose accumulated sick leave is restored to such retiree's sick leave account, shall only be entitled to retirement credit for unused sick leave based on the certification of such retiree's last employer. Any previously granted sick leave shall be deducted from the original benefit should it be reinstated in accordance with § 8-36-802(b).

(e) Notwithstanding the foregoing, sick leave conversions shall be permitted only if:

(1) The leave is for unused accrued paid time off for sick leave or for comparable paid time off under an established leave policy without regard to whether the leave is due to illness or incapacity;

(2) The leave policy qualifies as a bona fide sick leave plan for purposes of § 409A of the Internal Revenue Code (26 U.S.C. § 409A), and Treasury Regulation § 1.409A-1(a)(5);

(3) The sick leave plan provides for service credit for a member's unused paid time off; provided, that the eligibility requirements for participation in the plan do not permit an employee to become a member only in the plan year in which the member terminates employment;

(4) The conversion is automatic and the member has no right to request a cash payment;

(5) The unused paid time off is converted to service credit under a specified formula which satisfies the definitely determinable standard of Treasury Regulation § 1.401-1(b)(1)(i);

(6) The plan otherwise provides for service credit unrelated to the conversion of any member's unused paid time off; and

(7) The member's annual benefit, as adjusted by the leave conversion, does not exceed the limit under § 415(b) of the Internal Revenue Code (26 U.S.C. § 415(b)).

8-35-107. Temporary employment period.

(a) Any state agency, department, board, commission, institution, or political subdivision, covered on July 1, 1972, by chapters 34-37 of this title, or who may thereafter elect to bring its employees into the retirement system as general employees, shall have the option of establishing a period of temporary employment not to exceed six (6) months.

(b)(1) At the request of a political subdivision employer and upon approval by the board of trustees, the six-month temporary employment period may be extended for specific groups of employees. These employees are ones employed for specific construction projects expected to be completed within four (4) years. Such projects must be outside the usual duties and/or

customary responsibilities of the employer.

(2) Requests from political subdivisions for board approval for an extended temporary employment period shall contain all information considered necessary by the board including, but not limited to, the nature of the construction project, expected duration and the number of employees to be temporarily employed.

(3) No service credit may be established for extended temporary employment as provided by this subsection (b).

(c) Notwithstanding any provision of this section or any other law to the contrary, any employer participating in the retirement system on July 1, 1995, who has not established a temporary employment period on such date, and any employer who thereafter becomes a participating employer, shall be prohibited from establishing a temporary employment period pursuant to this section.

(d) In the event an employee completes a period of temporary employment with an employer pursuant to this section and subsequently terminates employment for any reason, such employer shall not require the employee to complete an additional period of temporary employment in the event the employee is ever rehired by the same employer.

8-35-109. Membership in retirement system dependent on election by certain officials.

Any person who becomes a state judge, a county judge, a county official, a commissioner, a county chair, an elected or appointed official of the general assembly, or any district attorney general and any assistant thereto by whatever name called, on or after July 1, 1983, shall not become a member of the retirement system, unless such person elects to become a member of the system and is otherwise eligible for membership. The election shall be made in the manner prescribed by the retirement system and shall be filed with the retirement system.

8-36-101. Prohibited changes in retirement.

A current early service retiree shall not change to disability retirement. A current disability retiree shall not change to early service retirement.

8-36-109. Survivor benefits.

(a) Upon the death of a member in service who has reached the applicable eligibility requirements for an early or service retirement allowance as set forth in part 2 or 3 of this chapter, a retirement allowance shall be paid to the member's surviving designated beneficiary, if any.

(1) No benefits shall be payable under this subsection (a) on account of any member on whose account a benefit is payable under any other provision of chapters 34-37 of this title.

(2) The retirement allowance payable to the beneficiary shall be equal to the retirement allowance which would have been payable had the member retired under an effective election of Option 1 as provided in part 6 of this chapter with such person nominated as the beneficiary under the option.

(3)(A) Notwithstanding any other law to the contrary, if the member's spouse is the designated beneficiary on the date of the member's death, and if that spouse should thereafter die leaving a surviving minor child or

children of the member, then the annuity the spouse was receiving under this subsection (a) shall be divided equally among the member's surviving minor children. Each child shall receive the child's share until the first day of the month following the month in which the child dies or reaches twenty-two (22) years of age, whichever occurs first, at which time the annuity shall be redistributed equally among the remaining children.

(B) If the member's spouse is designated as the sole beneficiary on the date of the member's death, and if that spouse predeceased the member or died in a common accident or occurrence with the member, then the member's surviving minor child or children shall be entitled to the same annuity as set forth in subdivision (a)(3)(A).

(b)(1) Upon the death of a member in service who is vested, a retirement allowance shall be paid to the member's surviving spouse, if any, if the spouse is designated as beneficiary.

(A) No benefits shall be payable under this subsection (b) on account of any member on whose account a benefit is payable under any other provision of chapters 34-37 of this title.

(B) The retirement allowance payable to the surviving spouse shall be equal to the retirement allowance which would have been payable had the member retired under an effective election of Option 1 as provided in part 6 of this chapter with the member's spouse nominated as the beneficiary under that option.

(C) The retirement allowance payable under this subsection (b) shall be reduced by four tenths of one percent (0.4%) for each month by which the member's death precedes the member's service retirement date.

(D) This subsection (b) does not apply to members in the employ of a political subdivision unless the governing body of the political subdivision authorizes by resolution and accepts the liability therefor.

(2) Should the governing body of a political subdivision elect not to accept the liability for its employees to receive a survivor's benefit in accordance with this subsection (b), a survivor's benefit shall be paid in accordance with subsection (a).

(c) A member shall be considered to be "in service" under this section, even though the member is no longer participating in this system because of advanced age, so long as the member continues to be employed by the same employer.

(d) Upon the death of a member in service who has completed ten (10) years of creditable service, a retirement allowance shall be paid to the member's nominated beneficiary, if any.

(1) No benefits shall be payable under this subsection (d) on account of any member on whose account a benefit is payable under any other provision of chapters 34-37 of this title.

(2) The retirement allowance payable to the beneficiary shall be determined by converting the lump sum benefit payable under § 8-36-107 into a monthly annuity payable over a period not to exceed one hundred twenty (120) months. The present value of the monthly annuity shall be equal to the lump sum benefit payable in accordance with § 8-36-107. The interest rate used in calculating the present value shall be based on the interest rate payable by annuity companies in the open market on the date the monthly benefit commences. The interest rate shall not be lower than the rate established by the board of trustees under § 8-34-505.

(3) In the event the beneficiary dies before receiving all of the benefits payable under subdivision (d)(2), a lump sum payment equal to the actuarial equivalent of the monthly benefit due over the remaining months in the one-hundred-twenty month period shall be paid to the beneficiary's estate in accordance with § 8-36-120.

8-36-125. Disclaimer of benefits.

(a) A person designated as the beneficiary to receive a death benefit under chapters 34-37 of this title may disclaim the benefit upon the death of the member. Such disclaimer may be made by the person's trustee, guardian, conservator, or attorney-in-fact. If the disclaimer is made by such person's fiduciary, the disclaimer shall be binding on the beneficiary and on any successor fiduciary.

(b) To be effective, the beneficiary must not have received any of the benefits, and the disclaimer must be in writing and filed with the division of retirement. Such writing shall:

(1) Indicate that the disclaimer is an irrevocable and unqualified refusal by the person to accept the benefit;

(2) Describe the amount of the benefit disclaimed; and

(3) Be signed by the person disclaiming or such person's representative.

(c) If a disclaimer is made under this section, the disclaiming beneficiary's share shall be distributed to the remaining beneficiary or beneficiaries in equal proportions.

8-36-202. Application for retirement — Use of electronic means.

Any eligible member may retire on a service retirement allowance subsequent to receipt by the board of trustees of an application filed by the member through such medium as shall be prescribed by the state treasurer. At such time designated by the state treasurer, the retirement system may require the use of an electronic medium for the submission of service retirement applications. The director of the retirement system may waive the requirement to submit such application by electronic means for any member who demonstrates in writing that compliance would cause undue hardship to the member as determined by the director of the retirement system.

8-36-308. Eligibility of police officer or firefighter for early service retirement upon attainment of 25 years of creditable service. [Effective January 1, 2020.]

(a) Notwithstanding this part or any law to the contrary, a police officer or firefighter who is a member of the retirement system, regardless of the police officer's or firefighter's participation in the legacy pension plan, the hybrid plan, or any other alternative plan, is eligible for early service retirement upon attainment of twenty-five (25) years of creditable service. The retirement allowance, as provided under this section, must be computed as the actuarial equivalent of the benefit that would have been payable under a service retirement allowance.

(b) No police officer or firefighter is required to retire pursuant to subsection (a). Subsection (a) applies only to police officers or firefighters who retire on or after January 1, 2020, and does not constitute a change in formula under

§ 8-36-702.

(c)(1) A political subdivision employing a police officer or firefighter, who voluntarily chooses to retire pursuant to subsection (a), may require the police officer or firefighter to pay any insurance coverage otherwise provided to members who are one hundred percent (100%) vested in the service retirement benefit pursuant to § 8-36-201 from the time the police officer or firefighter voluntarily chooses to retire pursuant to subsection (a) until the date that the police officer or firefighter would have become one hundred percent (100%) vested in the service retirement benefit pursuant to § 8-36-201.

(2) A police officer or firefighter, who voluntarily chooses to retire pursuant to subsection (a), is entitled to any insurance coverage otherwise provided to members who are one hundred percent (100%) vested in the member's service retirement benefit pursuant to § 8-36-201 on the date that the police officer or firefighter would have become one hundred percent (100%) vested in the service retirement benefit pursuant to § 8-36-201.

(d) Subsection (c) does not apply to a municipality, as that term is defined in § 7-84-103, that is a member of the state retirement system and provides health insurance benefits in accordance with chapter 27, part 6 of this title.

(e) For purposes of this section, "police officer" means a sheriff, sheriff's deputy, or police officer employed by this state, a municipality, or political subdivision of this state whose primary responsibility is the prevention and detection of crime and apprehension of offenders.

8-36-714. Requirements to be compensated as president emeritus — Continued eligibility requirements — Filing of agreement.

(a) The board of trustees of the University of Tennessee may grant to any former president of the University of Tennessee the title "president emeritus." A state university board or the board of regents may grant to any former president of any college or university it governs a similar "emeritus" title. No former president shall receive any compensation or remuneration for holding the emeritus title, unless the following conditions are met:

(1) The remuneration is for time actually spent by the former president in performing services for the respective governing board;

(2) An agreement is executed between the respective governing board and the former president which sets forth the duties to be performed by the former president;

(3) The agreement cannot exceed a term of one (1) year. The respective governing board may enter into additional one-year agreements with the former president. No renewal agreement shall be entered into until the governing board reviews and is satisfied with the emeritus work performed by the former president. Any such renewal must be approved by an affirmative vote of a majority of the respective governing board;

(4) The former president must reside in the state of Tennessee at the time of the initial appointment and at the time of any subsequent appointment; and

(5) The former president shall not accrue any additional retirement credit as a result of such appointment.

(b) Notwithstanding any other law to the contrary, any former president receiving compensation or remuneration for holding the emeritus title pursuant to this section shall be eligible to continue drawing such person's

retirement allowance; provided, that the former president does not work and is not compensated for more than one hundred twenty (120) days or the equivalent of one hundred twenty (120) days during the one-year appointment, or, if working as a teacher, for more than twenty-four (24) quarter credit hours or eighteen (18) semester credit hours during the one-year appointment. If the period exceeds that specified in this subsection (b), the former president's monthly retirement allowance shall be reduced in direct proportion thereto. The retirement system is authorized to obtain reimbursement for any retirement benefits overpaid as a result of any compensation being paid to a former president in excess of that permitted by this section. Such reimbursement may be made by deductions from the former president's monthly benefit.

(c) For each emeritus appointment for which compensation or remuneration will be paid, the respective governing board shall be responsible for filing with the retirement division the agreement, which sets forth the name of the person holding the title, and the beginning and ending date of the appointment. The agreement shall be accompanied with documentation showing the amount of compensation to be paid to the person and the number of hours to be worked. The agreement and documentation shall be filed annually, if applicable, and signed by the former president acknowledging the conditions of the appointment. The governing board shall send written notice to the speaker of the senate, the speaker of the house of representatives, the chairs of the senate standing committees on education and on finance, ways and means, the chairs of the standing committees on education and finance, ways and means of the house of representatives, and the office of legislative budget analysis of each emeritus appointment for which compensation or remuneration will be paid.

8-36-903. Persons eligible to participate in hybrid retirement plan — Determination of eligibility — Continuing membership in optional retirement program — Transfer to hybrid plan — Application of provisions of the Tennessee consolidated retirement system.

(a) Notwithstanding any other law to the contrary and except as provided in this section, any person otherwise eligible to participate in the retirement system or in the optional retirement program established in the Optional Retirement Program for Employees of Public Institutions of Higher Education, compiled in chapter 25, part 2 of this title who enters service as a state employee or teacher on or after July 1, 2014, shall participate in the hybrid plan established under this part; provided, however, that any person who enters service with a state-supported institution of higher education on or after July 1, 2014, and who is exempt from the Fair Labor Standards Act (29 U.S.C. § 201 et seq.), may elect membership in the optional retirement program as provided in § 8-36-923 in lieu of the hybrid plan. In all cases of doubt, the state treasurer shall determine whether the person is eligible to participate in the optional retirement program.

(b) Any state employee or teacher who is a member of the retirement system or of the optional retirement program established in chapter 25, part 2 of this title on June 30, 2014, shall continue membership in the retirement system pursuant to the terms of chapters 34-37 of this title or in the optional retirement program pursuant to the terms of chapter 25, part 2 of this title, as applicable, that were in effect on June 30, 2014. Any person who reenters

service as a state employee or teacher on or after July 1, 2014, having previously served as a state employee or teacher prior to July 1, 2014, and who has not otherwise lost membership in the retirement system pursuant to § 8-35-104(a)(1) or (a)(2) or in the optional retirement program shall continue membership in the retirement system pursuant to the terms of chapters 34-37 of this title or in the optional retirement program pursuant to the terms of chapter 25, part 2 of this title, as applicable, that were in effect on June 30, 2014. A person loses membership in the optional retirement program by either annuitizing that person's entire account, rolling the person's entire account balance over to another plan, or by taking a distribution of the person's entire account balance.

(c)(1) Except as provided in subdivision (c)(6), membership in the hybrid plan or the optional retirement program, as applicable, shall not be required for any part-time state employee or part-time teacher who would otherwise be covered under this part, or for any state employee who has optional membership in the retirement system pursuant to chapters 34-37 of this title.

(2) Notwithstanding any other law to the contrary and except as provided in subdivision (c)(6), any person who becomes a part-time state employee or a part-time teacher on or after July 1, 2016, and who otherwise would be covered under this part, shall upon initial date of hire file an irrevocable election to become or not to become a participant in the hybrid plan or in the optional retirement program described in § 8-36-923, as applicable. Any person serving as a part-time state employee or part-time teacher on June 30, 2016, and who otherwise would be covered under this part, but who did not elect to participate in the hybrid plan or in the optional retirement program described in § 8-36-923, shall, by no later than October 31, 2016, file an irrevocable election to become or not to become a participant in the hybrid plan or in the optional retirement program described in § 8-36-923, as applicable. This subdivision (c)(2) shall not be construed to prohibit an eligible employee from making the elections authorized in chapter 25, part 2 of this title.

(3) Notwithstanding this subsection (c), § 8-35-109, or any other law to the contrary, any person who becomes a state judge, district attorney general, or member of the general assembly on or after July 1, 2016, and who has not otherwise maintained membership in the retirement system based on previous service as a state employee or teacher, shall, upon the initial date of taking office, file an irrevocable election to become or not to become a participant in the hybrid plan. Any person serving as a state judge, district attorney general, or member of the general assembly on June 30, 2016, and who is not a participant in the hybrid plan or who has not otherwise maintained membership in the retirement system based on previous service as a state employee or teacher, shall, by no later than October 31, 2016, file an irrevocable election to become a participant in the hybrid plan.

(4) Notwithstanding any other law to the contrary and except as provided in subdivision (c)(6), any member of the state election commission who has not otherwise maintained membership in the retirement system based on previous service as a state employee or teacher, shall, on the first day following completion of five (5) years of service on the commission, file an irrevocable election to become or not to become a participant in the hybrid plan. Any member of the state election commission who has completed a

minimum of five (5) years of service on the commission as of June 30, 2016, and who is not a participant in the hybrid plan or who has not otherwise maintained membership in the retirement system based on previous service as a state employee or teacher, shall, by no later than October 31, 2016, file an irrevocable election to become or not to become a participant in the hybrid plan.

(5) The elections provided for in this subsection (c) shall be made in the manner prescribed by the retirement system and shall be filed with the retirement system. The elections provided for in this subsection (c) shall not include any option for the employee to have a cash or deferred election right with respect to designated employee contributions, and the employee contributions shall be picked up in accordance with § 8-36-904(b).

(6) Notwithstanding this subsection (c), any current or former member of the retirement system or of a superseded system who accepts, or is elected to, a position on or after July 1, 2018, for which membership in the hybrid plan is otherwise optional pursuant to this subsection (c) shall become a member of the hybrid plan as a condition of employment. This subdivision (c)(6) shall not apply to retired members of the retirement system or of a superseded system who return to service in a position covered by the retirement system as provided in § 8-36-805, § 8-36-810, § 8-36-818, or § 8-36-821.

(d) Any teacher as defined in § 8-34-101(49)(B) who is a member of the retirement system pursuant to § 8-35-101 shall have the option to transfer from the retirement system to the hybrid plan on a prospective basis; provided, that allowing such choice meets all applicable state and federal requirements, including § 414(h) of the Internal Revenue Code (26 U.S.C. § 414(h)), that are necessary for the retirement system to maintain its status as a qualified plan under the Internal Revenue Code. The election to transfer shall be made in the manner prescribed by the retirement system and filed with the retirement system. Any such election shall become effective on the first day of the month next following the month the election is filed with the retirement system, and shall be irrevocable. The actuarial value of accrued benefits earned prior to the effective date of the transfer shall be determined under the applicable provisions of the retirement system in effect on the date of the transfer. The teacher shall thereafter be subject to the applicable provisions of this part for all service rendered and compensation received by the teacher as a teacher with any elementary or secondary Tennessee public school system or as a future state employee.

(e) All provisions of chapter 25, part 2 and of chapters 34-37 of this title that are not inconsistent with this part shall continue to apply, as applicable, to participants in the hybrid plan or the optional retirement program.

8-36-922. Annual employer contributions to the hybrid plan benefits trust account.

(a)(1) Every employer participating in the hybrid plan shall contribute each year a sum equal to the greater of:

(A) The normal contribution rate and the accrued liability contribution rate as determined pursuant to subsection (b), multiplied by the earnable compensation of all its participating employees; or

(B) Four percent (4%), rounded to the nearest whole number, of the earnable compensation of all its participating employees, except as other-

wise provided in subdivision (a)(3).

(2) All employer contributions shall be deposited to the hybrid plan benefits trust account until such time as the pension stabilization reserve trust takes effect as provided in § 9-4-1001. Once the trust takes effect, any employer contributions made in excess of the actuarial rate determined pursuant to subsection (b) shall be deposited into the pension stabilization reserve trust fund established pursuant to § 9-4-1001.

(3) Employer contributions for kindergarten through twelfth (K-12) grade teachers shall be paid by the respective local education agency for which the teachers are employed. Employer contributions for political subdivision employees shall be paid by the respective participating political subdivision. Notwithstanding any other law to the contrary, the director of the retirement system is authorized, at the director's sole discretion, to determine the amount of employer contributions, if any, that must be paid by a local education agency into the stabilization reserve trust account or to the pension stabilization reserve trust fund pursuant to § 8-36-920; provided, that the amount shall not exceed the amount that would otherwise be required. The director of the retirement system is further authorized, at the director's sole discretion, to determine the amount of employer contributions, if any, that must be paid by a participating political subdivision into its individual pension stabilization reserve trust fund pursuant to § 8-36-920; provided, that the amount shall not exceed the amount that would otherwise be required.

(4) Notwithstanding this section, if deposits of employer contributions attributable to federal funds are prohibited to be made to the stabilization reserve trust account or to the pension stabilization reserve trust fund pursuant to § 8-36-920(d)(2), the employer contributions attributable to those funds shall be based solely on subdivision (a)(1)(A).

(5) Notwithstanding this section, employer contributions shall be based solely on subdivision (a)(1)(A) on July 1 of any given year for an employer whose deposits into the stabilization reserve trust account are suspended pursuant to § 8-36-920(g) or whose deposits into the pension stabilization reserve trust fund are suspended pursuant to § 9-4-1005. Nothing in this subdivision (a)(5) shall be deemed to give any participating employer or any participant a valid claim or cause of action for refund or credit for any sum or sums paid or to be paid to the hybrid plan or to the pension stabilization reserve trust fund.

(b) The actuary of the retirement system shall compute the normal contribution rate and the accrued liability contribution rate payable to the defined benefit component of the plan for each account described in § 8-36-920(e); provided, however, the computation shall not include the stabilization reserve trust account and shall be made by an actuarial valuation in the manner provided by chapter 37, part 3 of this title; provided, further, that the entry age actuarial cost method, as defined by the Actuarial Standards Board, shall be used in determining normal costs and contributions for unfunded accrued liabilities. Level dollar amortization of unfunded accrued liabilities shall be used over a period of time as set by the board, but not to exceed twenty (20) years. The asset valuation method shall be based on the market value of plan assets and provide for smoothing of investment gains and losses over a period of time established by the board, but not to exceed ten (10) years. In addition, the actuarial demographic assumptions shall include projections of mortality

improvement.

(c)(1) Notwithstanding this part or any other law to the contrary, if the actuarial valuation as of any year establishes a normal contribution rate and an accrued liability contribution rate, combined, that exceeds four percent (4%), the following steps in the order provided below shall automatically take effect the next July 1 immediately following the actuarial valuation as determined by the actuarial valuation process:

(A) Transfer such amounts as may be necessary from the stabilization reserve trust account created in § 8-36-920 to the reserve trust account to fund the increase in the employer contribution rate;

(B) Request a transfer pursuant to § 9-4-1004 of such amounts as may be necessary from the pension stabilization reserve trust fund created in § 9-4-1001 to the reserve trust account to fund the increase in the employer contribution rate;

(C) Suspend or reduce, as necessary, the three percent (3%) maximum cost-of-living adjustment as provided for in § 8-36-701(b)(1). Any such suspension or reduction shall begin on the July 1 next following the actuarial valuation;

(D) Suspend or reduce, as necessary, the amount of employer contributions required to the defined contribution component of the plan and redirect such amount to the reserve trust account to fund the increase in the employer contribution rate;

(E) Increase the employee contributions required in § 8-36-904 by one percent (1%) of the participant's earnable compensation;

(F) Reduce the retirement allowance formulas in § 8-36-907 from one percent (1.0%) and one and six-tenths percent (1.6%) to such lesser amount as is necessary to reduce the employer contribution rate to four percent (4%). The reduction in formulas shall only apply to future service accruals; and

(G) If the employer contribution rate still exceeds four percent (4%) after taking the above steps, then the hybrid plan shall be suspended for future service accruals until such time as the employer rate equals four percent (4%) or lower.

(2) If the actuarial valuation as of any year establishes a normal contribution rate and an accrued liability contribution rate, combined, that equals four percent (4%) or lower, the above steps in the reversed order as provided above shall automatically take effect the next July 1 immediately following the actuarial valuation as determined by the actuarial valuation process.

(d)(1) The actuary of the retirement system shall determine the amount of the unfunded accrued liability for the defined benefit component of the hybrid plan. If the unfunded liability exceeds the maximum unfunded liability, the following steps in the order provided in subdivisions (d)(1)(A)-(E) shall automatically apply on the effective date that the maximum unfunded liability has been reached. The unfunded liability shall be determined by the calculation of the net pension liability in accordance with the standards and other pronouncements issued by the governmental accounting standards board. For purposes of this section, "maximum unfunded liability" means with respect to state employees an unfunded liability of no greater than twelve and one-half percent (12.5%) of a five-year moving market average of the general obligation debt of the state of Tennessee, including its commercial paper. With respect to teachers, "maximum un-

funded liability” means an unfunded liability of no greater than twelve and one-half percent (12.5%) of a five-year moving market average of the general obligation debt of the state of Tennessee, including its commercial paper. With respect to political subdivision employees, “maximum unfunded liability” means an unfunded liability of no greater than the amount as determined by the employees’ respective employer and as shall be set forth in the political subdivision’s participation resolution:

(A) Suspend or reduce, as necessary, the three percent (3%) maximum cost-of-living adjustment as provided for in § 8-36-701(b)(1). Any such suspension or reduction shall begin on the July 1 next following the actuarial valuation;

(B) Suspend or reduce, as necessary, the amount of employer contributions required to the defined contribution component of the plan and redirect such amount to the reserve trust account to fund the increase in the maximum unfunded liability;

(C) Increase the employee contributions required in § 8-36-904 by one percent (1%) of the participant’s earnable compensation;

(D) Reduce the retirement allowance formulas in § 8-36-907 from one percent (1%) and one and six-tenths percent (1.6%) to such lesser amount as is necessary to reduce the unfunded liability to the maximum unfunded liability. The reduction in formulas shall only apply to future service accruals; and

(E) If the maximum unfunded liability is still exceeded, then the hybrid plan shall be suspended for future service accruals until such time as the unfunded liability equals or is less than the maximum unfunded liability.

(2) If the unfunded liability equals or is less than the maximum unfunded liability, the above steps in the reversed order as provided above shall automatically apply on the effective date that the unfunded liability equals or is less than the maximum unfunded liability.

8-37-502. Reports and payments.

(a) **Monthly Report of Salaries and Contributions.** For the purpose of ascertaining the amount of contributions payable under this chapter and chapters 34-36 of this title, it shall be the duty of the employer on or before the tenth day of each month to transmit to the state treasurer, in the manner prescribed by the state treasurer, the gross salary and amount of contributions deducted, if any, from the compensation of employees and contributions of the employer payable under this chapter and chapters 34-36 of this title during the preceding calendar month. The board of trustees is authorized to promulgate substantive and procedural rules requiring that all or a portion of the information described in § 8-35-105(a) is provided in such manner.

(b) At the time of transmitting the information required pursuant to subsection (a), the employer shall remit to the state treasurer therewith the amount of contributions due under this chapter and chapters 34-36 of this title; provided, however, that employers shall remit payments due to the stabilization reserve trust account within five (5) business days after receipt of an invoice from the retirement system. Failure to so remit such contributions or failure to remit such payments due to the stabilization reserve trust account shall cause them to become delinquent and liabilities to the employer.

**8-50-603. Discipline or discrimination for communication prohibited
— Damages.**

(a) It is unlawful for any public employer to discipline, threaten to discipline or otherwise discriminate against an employee because such employee exercised that employee's right to communicate with an elected public official.

(b) If the court of competent jurisdiction determines that a public employer has disciplined, threatened to discipline or otherwise discriminated against an employee because such employee exercised the rights provided by this part, such employee shall be entitled to compensatory damages plus reasonable attorney fees.

9-1-111. Report on federal receipts by designated state agencies. [Repealed effective July 1, 2024.]

(a) For purposes of this section:

(1) "Designated state agency" means:

- (A) Department of agriculture;
- (B) Department of financial institutions;
- (C) Department of environment and conservation;
- (D) Department of correction;
- (E) Department of economic and community development;
- (F) Department of education;
- (G) Board of trustees of the University of Tennessee;
- (H) Board of regents of the state university and community college system;
- (I) Local governing boards of trustees of state universities;
- (J) Department of general services;
- (K) Department of human services;
- (L) Department of commerce and insurance;
- (M) Department of labor and workforce development;
- (N) Department of mental health and substance abuse services;
- (O) Department of human resources;
- (P) Department of health;
- (Q) Department of revenue;
- (R) Department of safety;
- (S) Department of tourist development;
- (T) Department of transportation;
- (U) Department of the treasury;
- (V) Department of veterans services; and
- (W) The military department;

(2) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. § 7501, that is reported as part of a single audit; and

(3) "Single audit" has the same meaning as defined in 31 U.S.C. § 7501.

(b) Subject to subsections (c) and (d), a designated state agency shall for each year designated in subsection (g), on or before October 31, prepare a report that:

(1) Reports the aggregate value of federal receipts the designated state agency received for the preceding fiscal year;

(2) Reports the aggregate amount of federal funds appropriated by the general assembly to the designated state agency for the preceding fiscal year;

(3) Calculates the percentage of the designated state agency's total budget for the preceding fiscal year that constitutes federal receipts that the designated state agency received for that fiscal year; and

(4) Develops plans for operating the designated state agency if there is a reduction of:

(A) Five percent (5%) in the federal receipts that the designated state agency receives;

(B) Twenty-five percent (25%) in the federal receipts that the designated state agency receives; and

(C) One hundred percent (100%) in the federal receipts that the designated state agency receives.

(c) The report required by subsection (b) that the department of education prepares must include the information required by subdivisions (b)(1)-(3) for each school district, including special school districts, and each charter school within the public education system.

(d) Each designated state agency that prepares a report in accordance with subsection (b) shall submit the report to the department of finance and administration on or before November 1 of each year designated by subsection (g).

(e)(1) The department of finance and administration shall, on or before November 30 of each year designated by subsection (g), prepare a report that:

(A) Compiles and summarizes the reports the department of finance and administration receives in accordance with subsection (d); and

(B) Compares the aggregate value of federal receipts each designated state agency received for the previous fiscal year to the aggregate amount of federal funds appropriated by the general assembly to that designated state agency for that fiscal year.

(2) The department of finance and administration shall, as part of the report required by subdivision (e)(1), compile a list of designated state agencies that do not submit a report as required by this section.

(f) The department of finance and administration shall submit the report required by subsection (e) to the chairs of the finance, ways and means committees of the house of representatives and the senate on or before January 15 of each year following the year designated by subsection (g).

(g) Reports required by this section must be prepared in 2019, 2021, and 2023.

(h) This section is repealed on July 1, 2024.

9-4-213. State appropriations to child advocacy centers.

(a) Except as otherwise provided in subsection (b), on and after July 1, 1998, no state funds appropriated specifically for child advocacy centers shall be allocated or paid to any such center unless the center clearly demonstrates that it:

(1) Is a nonprofit corporation which has received a determination of exemption from the internal revenue service under 26 U.S.C. § 501(c)(3);

(2) Employs an executive director who is answerable to the board of directors and who is not the salaried employee of any governmental entity signing the memorandum of understanding and working protocol identified in subdivision (a)(3);

(3) Has a signed memorandum of understanding and working protocol executed among:

(A) The department of children's services;

(B) All county and municipal law enforcement agencies within the geographical area served by the center;

(C) All district attorneys general offices within the geographical area served by the center; and

(D) Any other governmental entity which participates in child abuse investigations or offers services to child abuse victims within the geographical area served by the center;

(4) Facilitates the use of a multidisciplinary team (representing prosecution, law enforcement, mental health, medical, child protective and social services professionals and the juvenile court) which jointly:

(A) Assess victims of child abuse and their families; and

(B) Determine the need for services;

(5) Provides a facility that is child-focused, neutral, comfortable, private, and safe, where the multidisciplinary team can meet to coordinate the efficient and appropriate disposition of child abuse cases through the civil and criminal justice systems;

(6) Provides for the provision of needed services, referral to such services, and case tracking;

(7) Has written policies and procedures consistent with the standards established by the National Children's Alliance; and

(8) Agrees to accurately collect and report key outcome data and information relative to each center's operations to the Tennessee chapter of children's advocacy centers, which is the statewide membership organization. The Tennessee chapter of children's advocacy centers shall compile and report such data annually to the chairs of the judiciary and health and welfare committees of the senate, the chair of the health committee of the house of representatives, and the chair of the committee of the house of representatives having oversight over children and families. The data and information collected pursuant to this subdivision (a)(8) shall include, at a minimum, the following:

(A) Number and demographic profiles of cases served by age, gender, race, type of abuse, and treatment thereof, including mental health and medical services rendered;

(B) Demographic profiles of perpetrators of abuse by age, gender, race, relationship to victim, and the outcome of any legal action taken against such perpetrators;

(C) Nature of services and support provided by or through the center; and

(D) Data and information relative to community investment in and community support of the center.

(b)(1) On and after July 1, 1998, no state funds appropriated specifically for one-time, start-up assistance for new child advocacy centers shall be allocated or paid to any such center unless the center clearly demonstrates that it:

(A) Has a signed memorandum of understanding and working protocol executed among:

(i) The department of children's services;

(ii) All county and municipal law enforcement agencies within the

area served by the center;

(iii) All district attorneys general offices within the area served by the center; and

(iv) Any other governmental entity which participates in child abuse investigations or offers services to child abuse victims within the area served by the center; and

(B) Has formally filed an application for a determination of exemption from the internal revenue service under 26 U.S.C. § 501(c)(3).

(2) After receiving any such start-up assistance, no additional state funds appropriated specifically for child advocacy centers shall be allocated or paid to such center unless the center clearly demonstrates that it complies with the enumerated requirements set forth in subsection (a).

(c) In those geographical areas in which a child advocacy center meets the requirements of subsection (a) or (b), child advocacy center directors or their designees shall be members of the child protective multi-disciplinary teams under title 37, chapter 1, parts 4 and 6, for purposes of provision of services and functions established by this section or delegated pursuant to this section. In such event, child advocacy center directors or their designees may access and generate all necessary information, which shall retain its confidential status, consistent with § 37-1-612.

(d) Notwithstanding any other provision of this section to the contrary, the department of children's services, or any other department administering state funds specially appropriated for child advocacy centers, shall continue to allocate and/or pay such funds to existing child advocacy centers with active applications on file with the department, if such centers demonstrate satisfactory progress in efforts to achieve compliance with this section.

9-4-214. Victims of human trafficking fund.

(a) There is created a fund within the state treasury, to be known as the "victims of human trafficking fund." The fund consists of grants, appropriations by the general assembly, and any federal funds, to the extent permitted by federal law and regulation. Moneys deposited in the fund must be invested for the benefit of the fund pursuant to § 9-4-603. Moneys in the fund must not revert to the general fund, but must remain available to be used by the department of finance and administration's office of criminal justice programs exclusively for the purpose specified in subsection (b). The commissioner of the department of finance and administration has the authority to promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, in order to ensure the funds are received and expended for the purposes consistent with subsection (b).

(b) The purpose of the victims of human trafficking fund is to provide specialized comprehensive treatment and support services to the victims of human trafficking offenses, as defined in § 39-13-314. Specialized comprehensive treatment and support services for victims of human trafficking include, but are not limited to, medical care, mental health and substance abuse care, nutritional counseling, safe housing, job training, transportation, and other basic human needs. The department of finance and administration's office of criminal justice programs shall distribute moneys in the fund in the form of grants to agencies that provide specialized comprehensive treatment and support services for the victims of human trafficking. It is the legislative intent

that priority for funding be directed to the single point of contact agencies in this state recognized by the Tennessee bureau of investigation and the department of children's services.

9-21-151. Public entities — Information concerning debt obligation issuances.

(a) In addition to the definitions applicable generally to this chapter, the following definitions shall be applicable to this section only:

(1) "Advisor" means a financial advisor, swap advisor, or program administrator, with respect to a finance transaction, whether or not such title is used;

(2) "Costs" related to a finance transaction may include, but are not limited to, fees and expenses of advisors, underwriters, placement agents, counterparties, bond and other counsel, paying agents, registrars, trustees, escrow agents, verification agents, credit enhancement and liquidity providers, remarketing and auction agents, rating agencies, publishing, and other similar fees and expenses, whether or not payable at issuance. "Cost" may include recurring and nonrecurring fees and expenses occurring during the life of the transaction, debt service payments, including interest, and any payments made to a counterparty;

(3) "Debt obligation" means bonds, notes, capital leases, loan agreements, and any other evidence of indebtedness lawfully issued, executed or assumed by a public entity;

(4) "Derivative" means an interest rate agreement, as defined in § 9-22-103, and such other transactions related to debt obligations as identified by the state funding board;

(5) "Event of default" means default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties;

(6) "Finance transaction" means debt obligations, derivatives, or both;

(7) "Financial obligation":

(A) Means:

(i) A debt obligation;

(ii) A derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or

(iii) A guarantee of a debt obligation or derivative instrument; and

(B) Does not include municipal securities as to which a final, official statement has been provided to the Municipal Securities Rulemaking Board (MSRB) consistent with 17 CFR 240.15c2-12 under the Securities and Exchange Act of 1934;

(8) "Public entity" means the state, a state agency, a local government, a local government instrumentality, or any other authority, board, district, instrumentality, or entity created by the state, a state agency, local government, a local government instrumentality, or combination, thereof;

(9) "Public finance professional" means an advisor, underwriter, placement agent, counterparty, bond counsel, issuer's counsel, or other person or entity advising the public entity with respect to a finance transaction or offering to provide professional services with respect to a finance transac-

tion; and

(10) "State funding board" means the state funding board, created pursuant to chapter 9 of this title.

(b) The state funding board is authorized to:

(1) Develop model finance transaction policies for use by public entities; and

(2) Exempt from the filing requirements of this section any finance transaction:

(A) Deemed de minimis by the board;

(B) Where the public entity is required by statute to participate in the financing program;

(C) That is a conduit transaction for a nongovernmental entity; or

(D) Where the disclosure of costs of the transaction is deemed not consistent with the public disclosure intent of this section.

(c)(1) The board shall determine the information to be disclosed pursuant to this section, including:

(A) A brief description of the finance transaction;

(B) The issuance, continuing and one-time costs of the finance transaction;

(C) A brief description of any continuing disclosure obligations with respect to the finance transaction;

(D) A copy of the offering document, if any; and

(E) Such other information and in such manner as may be required by the board.

(2) Not later than forty-five (45) days following the issuance or execution of a finance transaction by or on behalf of any public entity, the public entity shall submit, or cause to be submitted, the information pursuant to subdivision (c)(1) to the governing body of the public entity, with a copy to the comptroller of the treasury or the comptroller's designee. If an open meeting of the governing body is not scheduled within the forty-five-day period, then the public entity shall give a copy to each member of the body within such period and present the information in subdivision (c)(1) to the body at the next scheduled meeting.

(3) The state funding board shall require public entities to disclose financial obligations and events of default on the Electronic Municipal Market Access (EMMA) website of the MSRB and to disclose events of default to the office of the comptroller of the treasury by those public entities not required by the securities and exchange commission to disclose financial obligations and events of default on the EMMA website of the MSRB within ten (10) business days, in accordance with guidelines approved by the board.

(d)(1) Upon discovery by the public entity of a failure to comply with the requirements of this section, the public entity may immediately request permission from the comptroller of the treasury or the comptroller's designee to permit a late filing of such information. In addition, upon discovery by the comptroller of the treasury or the comptroller's designee of an omission or error or filing failure, the comptroller of the treasury or the comptroller's designee shall notify the public entity of such noncompliance. The public entity shall submit the required information, along with an explanation for the noncompliance, within fifteen (15) days following its discovery or notice by the comptroller of the treasury or the comptroller's designee.

(2) The comptroller of the treasury or the comptroller's designee shall maintain a list of all finance transactions discovered as not complying with

the requirements of this section, along with a description of the nature of the noncompliance. The comptroller of the treasury or the comptroller's designee shall also maintain lists of all public entities that have failed to respond to the comptroller of the treasury's or the comptroller's designee's notification of failure to file. The lists of entities that have failed to comply with the requirements of this section shall be a public record. Upon receipt of the information required for any finance transaction for which information is noncompliant, the comptroller of the treasury or the comptroller's designee shall remove the public entity from the list of those that have failed to respond to the comptroller of the treasury's or the comptroller's designee's notification and shall notify the public entity of its removal. If a public entity is on the comptroller of the treasury's or the comptroller's designee's list of public entities that have failed to respond to the comptroller of the treasury's or the comptroller's designee's notification of failure to file, no finance transactions may be issued by the public entity until the comptroller of the treasury or the comptroller's designee has removed the public entity from the list.

9-23-105. Administrative expenses.

(a) Notwithstanding any tax increment statute to the contrary, any plan may provide that a total of up to five percent (5%) of incremental tax revenues may be set aside for administrative expenses, including expenses incurred by the tax increment agency and tax agency administrative offices (assessor of property and/or trustee or other tax collecting official) in administering the plan, and including a reasonable allocation of overhead expenses.

(b) Notwithstanding subsection (a), a transit-oriented redevelopment plan approved pursuant to title 13, chapter 20, part 7, that includes tax increment financing of one million dollars (\$1,000,000) or more may provide that not more than three percent (3%) of incremental tax revenues may be set aside for administrative expenses, including expenses incurred by the tax increment agency and tax agency administrative offices (assessor of property and/or trustee or other tax collecting official) in administering the plan, including a reasonable allocation of overhead expenses.

10-7-504. Confidential records — Exceptions. [Effective until January 1, 2020. See the version effective on January 1, 2020.]

(a)(1)(A) The medical records of patients in state, county, and municipal hospitals and medical facilities, and the medical records of persons receiving medical treatment, in whole or in part, at the expense of the state, county, or municipality, shall be treated as confidential and shall not be open for inspection by members of the public. Any records containing the source of body parts for transplantation or any information concerning persons donating body parts for transplantation shall be treated as confidential and shall not be open for inspection by members of the public. Individually identifiable health information collected, created, or prepared by the department of health shall be treated as confidential and shall not be open for inspection by members of the public; provided, however, that the department may disclose such information as authorized or required by law.

(B) As used in this subdivision (a)(1), "individually identifiable health information" means information related to the physical or mental health

of an individual and that explicitly or by implication identifies the individual who is the subject of the information, including by name, address, birth date, death date, admission or discharge date, telephone number, facsimile number, electronic mail address, social security number, medical record number, health plan beneficiary number, account number, certificate or license number, biometric identifier, or any other identifying number, characteristic, or code.

(2)(A) All investigative records of the Tennessee bureau of investigation, the office of inspector general, all criminal investigative files of the department of agriculture and the department of environment and conservation, all criminal investigative files of the motor vehicle enforcement division of the department of safety relating to stolen vehicles or parts, all criminal investigative files and records of the Tennessee alcoholic beverage commission, and all files of the handgun carry permit and driver license issuance divisions of the department of safety relating to bogus handgun carry permits and bogus driver licenses issued to undercover law enforcement agents shall be treated as confidential and shall not be open to inspection by members of the public. The information contained in such records shall be disclosed to the public only in compliance with a subpoena or an order of a court of record; provided, however, that such investigative records of the Tennessee bureau of investigation shall be open to inspection by elected members of the general assembly if such inspection is directed by a duly adopted resolution of either house or of a standing or joint committee of either house, or if such inspection is directed by a majority vote of the entire membership of an ad hoc committee appointed specifically to study unsolved civil rights crimes that occurred between 1938 and 1975 and that is composed only of elected members of the general assembly. Any record inspected pursuant to this exception shall maintain its confidentiality throughout the inspection. Records shall not be available to any member of the executive branch except to the governor and to those directly involved in the investigation in the specified agencies.

(B) The records of the departments of agriculture and environment and conservation and the Tennessee alcoholic beverage commission referenced in subdivision (a)(2)(A) shall cease to be confidential when the investigation is closed by the department or commission or when the court in which a criminal prosecution is brought has entered an order concluding all proceedings and the opportunity for direct appeal has been exhausted; provided, however, that any identifying information about a confidential informant or undercover law enforcement agent shall remain confidential.

(C) The Tennessee bureau of investigation, upon written request by an authorized person of a state governmental agency, is authorized to furnish and disclose to the requesting agency the criminal history, records and data from its files, and the files of the federal government and other states to which it may have access, for the limited purpose of determining whether a license or permit should be issued to any person, corporation, partnership or other entity, to engage in an authorized activity affecting the rights, property or interests of the public or segments thereof.

(3) The records, documents and papers in the possession of the military department which involve the security of the United States and/or the state of Tennessee, including, but not restricted to, national guard personnel records, staff studies and investigations, shall be treated as confidential and

shall not be open for inspection by members of the public.

(4)(A) The records of students in public educational institutions shall be treated as confidential. Information in such records relating to academic performance, financial status of a student or the student's parent or guardian, medical or psychological treatment or testing shall not be made available to unauthorized personnel of the institution or to the public or any agency, except those agencies authorized by the educational institution to conduct specific research or otherwise authorized by the governing board of the institution, without the consent of the student involved or the parent or guardian of a minor student attending any institution of elementary or secondary education, except as otherwise provided by law or regulation pursuant thereto, and except in consequence of due legal process or in cases when the safety of persons or property is involved. The governing board of the institution, the department of education, and the Tennessee higher education commission shall have access on a confidential basis to such records as are required to fulfill their lawful functions. Statistical information not identified with a particular student may be released to any person, agency, or the public; and information relating only to an individual student's name, age, address, dates of attendance, grade levels completed, class placement and academic degrees awarded may likewise be disclosed.

(B) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by the federal Family Educational Rights and Privacy Act (FERPA), codified in 20 U.S.C. § 1232g, an institution of post-secondary education shall disclose to an alleged victim of any crime of violence, as that term is defined in 18 U.S.C. § 16, or a nonforcible sex offense, the final results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime or offense with respect to such crime or offense.

(C) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an institution of post-secondary education shall disclose the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence, as that term is defined in 18 U.S.C. § 16, or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

(D) For the purpose of this section, the final results of any disciplinary proceeding:

- (i) Shall include only the name of the student, the violation committed, and any sanction imposed by the institution on that student;
- (ii) May include the name of any other student, such as a victim or witness, only with the written consent of that other student; and
- (iii) Shall only apply to disciplinary hearings in which the final results were reached on or after October 7, 1998.

(E) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an educational institution shall disclose information provided to the institution under former § 40-39-106 [repealed], concerning registered sex offenders who are required to register under former § 40-39-103 [repealed].

(F) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an institution of higher education shall disclose to a parent or legal guardian of a student information regarding any violation of any federal, state, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol, a controlled substance or a controlled substance analogue, regardless of whether that information is contained in the student's education records, if:

- (i) The student is under twenty-one (21) years of age;
- (ii) The institution determines that the student has committed a disciplinary violation with respect to such use or possession; and
- (iii) The final determination that the student committed such a disciplinary violation was reached on or after October 7, 1998.

(G) Notwithstanding subdivision (a)(4)(A), § 37-5-107 or § 37-1-612, the institution shall release records to the parent or guardian of a victim or alleged victim of child abuse or child sexual abuse pursuant to § 37-1-403(i)(3) or § 37-1-605(d)(2). Any person or entity that is provided access to records under this subdivision (a)(4)(G) shall be required to maintain the records in accordance with state and federal laws and regulations regarding confidentiality.

(5)(A) The following books, records and other materials in the possession of the office of the attorney general and reporter which relate to any pending or contemplated legal or administrative proceeding in which the office of the attorney general and reporter may be involved shall not be open for public inspection:

- (i) Books, records or other materials which are confidential or privileged by state law;
- (ii) Books, records or other materials relating to investigations conducted by federal law enforcement or federal regulatory agencies, which are confidential or privileged under federal law;
- (iii) The work product of the attorney general and reporter or any attorney working under the attorney general and reporter's supervision and control;
- (iv) Communications made to or by the attorney general and reporter or any attorney working under the attorney general and reporter's supervision and control in the context of the attorney-client relationship; or

(v) Books, records and other materials in the possession of other departments and agencies which are available for public inspection and copying pursuant to §§ 10-7-503 and 10-7-506. It is the intent of this section to leave subject to public inspection and copying pursuant to §§ 10-7-503 and 10-7-506 such books, records and other materials in the possession of other departments even though copies of the same books, records and other materials which are also in the possession of the office of the attorney general and reporter are not subject to inspection or copying in the office of the attorney general and reporter; provided, that such records, books and materials are available for copying and inspection in such other departments.

(B) Books, records and other materials made confidential by this subsection (a) which are in the possession of the office of the attorney general and reporter shall be open to inspection by the elected members of

the general assembly, if such inspection is directed by a duly adopted resolution of either house or of a standing or joint committee of either house and is required for the conduct of legislative business.

(C) Except for the provisions of subdivision (a)(5)(B), the books, records and materials made confidential or privileged by this subdivision (a)(5) shall be disclosed to the public only in the discharge of the duties of the office of the attorney general and reporter.

(6) State agency records containing opinions of value of real and personal property intended to be acquired for a public purpose shall not be open for public inspection until the acquisition thereof has been finalized. This shall not prohibit any party to a condemnation action from making discovery relative to values pursuant to the Rules of Civil Procedure as prescribed by law.

(7) Proposals received pursuant to personal service, professional service, and consultant service contract regulations, and related records, including evaluations and memoranda, shall be available for public inspection only after the completion of evaluation of same by the state. Sealed bids for the purchase of goods and services, and leases of real property, and individual purchase records, including evaluations and memoranda relating to same, shall be available for public inspection only after the completion of evaluation of same by the state.

(8) All investigative records and reports of the internal affairs division of the department of correction or of the department of children's services shall be treated as confidential and shall not be open to inspection by members of the public. However, an employee of the department of correction or of the department of children's services shall be allowed to inspect such investigative records and reports if the records or reports form the basis of an adverse action against the employee. An employee of the department of correction shall also be allowed to inspect such investigative records of the internal affairs division of the department of correction, or relevant portion thereof, prior to a due process hearing at which disciplinary action is considered or issued unless the commissioner of correction specifically denies in writing the employee's request to examine such records prior to the hearing. The release of reports and records shall be in accordance with the Tennessee Rules of Civil Procedure. The court or administrative judge having jurisdiction over the proceedings shall issue appropriate protective orders, when necessary, to ensure that the information is disclosed only to appropriate persons. The information contained in such records and reports shall be disclosed to the public only in compliance with a subpoena or an order of a court of record.

(9)(A) Official health certificates, collected and maintained by the state veterinarian pursuant to rule chapter 0080-2-1 of the department of agriculture, shall be treated as confidential and shall not be open for inspection by members of the public.

(B) Any data or records provided to or collected by the department of agriculture pursuant to the implementation and operation of premise identification or animal tracking programs shall be considered confidential and shall not be open for inspection by members of the public. Likewise, all contingency plans prepared concerning the department's response to agriculture-related homeland security events shall be considered confidential and shall not be open for inspection by members of the public. The department may disclose data or contingency plans to aid the

law enforcement process or to protect human or animal health.

(C) Information received by the state that is required by federal law or regulation to be kept confidential shall be exempt from public disclosure and shall not be open for inspection by members of the public.

(10)(A) The capital plans, marketing information, proprietary information and trade secrets submitted to the Tennessee venture capital network at Middle Tennessee State University shall be treated as confidential and shall not be open for inspection by members of the public.

(B) As used in this subdivision (a)(10), unless the context otherwise requires:

(i) "Capital plans" means plans, feasibility studies, and similar research and information that will contribute to the identification of future business sites and capital investments;

(ii) "Marketing information" means marketing studies, marketing analyses, and similar research and information designed to identify potential customers and business relationships;

(iii) "Proprietary information" means commercial or financial information which is used either directly or indirectly in the business of any person or company submitting information to the Tennessee venture capital network at Middle Tennessee State University, and which gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information;

(iv) "Trade secrets" means manufacturing processes, materials used therein, and costs associated with the manufacturing process of a person or company submitting information to the Tennessee venture capital network at Middle Tennessee State University.

(11) Records that are of historical research value which are given or sold to public archival institutions, public libraries, or libraries of a unit of the Tennessee board of regents or the University of Tennessee, when the owner or donor of such records wishes to place restrictions on access to the records shall be treated as confidential and shall not be open for inspection by members of the public. This exemption shall not apply to any records prepared or received in the course of the operation of state or local governments.

(12) Personal information contained in motor vehicle records shall be treated as confidential and shall only be open for inspection in accordance with title 55, chapter 25.

(13)(A) All memoranda, work notes or products, case files and communications related to mental health intervention techniques conducted by mental health professionals in a group setting to provide job-related critical incident counseling and therapy to law enforcement officers, county and municipal correctional officers, dispatchers, emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and professional, are confidential and privileged and are not subject to disclosure in any judicial or administrative proceeding unless all parties waive such privilege. In order for such privilege to apply, the incident counseling and/or therapy shall be conducted by a qualified mental health professional as defined in § 33-1-101.

(B) For the purposes of this section, "group setting" means that more than one (1) person is present with the mental health professional when the incident counseling and/or therapy is being conducted.

(C) All memoranda, work notes or products, case files and communications pursuant to this section shall not be construed to be public records pursuant to this chapter.

(D) Nothing in this section shall be construed as limiting a licensed professional's obligation to report suspected child abuse or limiting such professional's duty to warn about dangerous individuals as provided under §§ 33-3-206 — 33-3-209, or other provisions relevant to the mental health professional's license.

(E) Nothing in this section shall be construed as limiting the ability of a patient or client, or such person's survivor, to discover under the Rules of Civil Procedure or to admit in evidence under the Rules of Evidence any memoranda, work notes or products, case files and communications which are privileged by this section and which are relevant to a health care liability action or any other action by a patient against a mental health professional arising out of the professional relationship. In such an action against a mental health professional, neither shall anything in this section be construed as limiting the ability of the mental health professional to so discover or admit in evidence such memoranda, work notes or products, case files and communications.

(14) All riot, escape and emergency transport plans which are incorporated in a policy and procedures manual of county jails and workhouses or prisons operated by the department of correction or under private contract shall be treated as confidential and shall not be open for inspection by members of the public.

(15)(A) As used in this subdivision (a)(15), unless the context otherwise requires:

(i) "Identifying information" means the home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual;

(ii) "Protection document" means:

(a) An order of protection issued pursuant to title 36, chapter 3, part 6, that has been granted after proper notice and an opportunity to be heard;

(b) A similar order of protection issued by the court of another jurisdiction;

(c) An extension of an ex parte order of protection granted pursuant to § 36-3-605(a);

(d) A similar extension of an ex parte order of protection granted by a court of competent jurisdiction in another jurisdiction;

(e) A restraining order issued by a court of competent jurisdiction prohibiting violence against the person to whom it is issued;

(f) A court order protecting the confidentiality of certain information issued upon the request of a district attorney general to a victim or witness in a criminal case, whether pending or completed; and

(g) An affidavit from the director of a rape crisis center, domestic violence shelter, or human trafficking service provider, as defined in § 36-3-623, certifying that an individual is a victim in need of protection; provided, that such affidavit is on a standardized form to be developed and distributed to such centers, shelters, and providers by the Tennessee task force against domestic violence; and

(iii) "Utility service provider" means any entity, whether public or private, that provides electricity, natural gas, water, or telephone service to customers on a subscription basis, whether or not regulated by the Tennessee public utility commission.

(B) If the procedure set out in this subdivision (a)(15) is followed, identifying information compiled and maintained by a utility service provider concerning a person who has obtained a valid protection document shall be treated as confidential and not open for inspection by the public.

(C) For subdivision (a)(15)(B) to be applicable, a copy of the protection document must be presented during regular business hours by the person to whom it was granted to the records custodian of the utility service provider whose records such person seeks to make confidential, and such person must request that all identifying information about such person be maintained as confidential.

(D) The protection document must at the time of presentation be in full force and effect. The records custodian may assume that a protection document is in full force and effect if it is on the proper form and if on its face it has not expired.

(E) Upon being presented with a valid protection document, the records custodian shall accept receipt of it and maintain it in a separate file containing in alphabetical order all protection documents presented to such records custodian pursuant to this subdivision (a)(15). Nothing in this subdivision (a)(15) shall be construed as prohibiting a records custodian from maintaining an electronic file of such protection documents provided the records custodian retains the original document presented.

(F) Identifying information concerning a person that is maintained as confidential pursuant to this subdivision (a)(15) shall remain confidential until the person who requested such confidentiality notifies in person the records custodian of the appropriate utility service provider that there is no longer a need for such information to remain confidential. A records custodian receiving such notification shall remove the protection document concerning such person from the file maintained pursuant to subdivision (a)(15)(E), and the identifying information about such person shall be treated in the same manner as the identifying information concerning any other customer of the utility. Before removing the protection document and releasing any identifying information, the records custodian of the utility service provider shall require that the person requesting release of the identifying information maintained as confidential produce sufficient identification to satisfy such custodian that that person is the same person as the person to whom the document was originally granted.

(G) After July 1, 1999, if information is requested from a utility service provider about a person other than the requestor and such request is for information that is in whole or in part identifying information, the records custodian of the utility service provider shall check the separate file containing all protection documents that have been presented to such utility. If the person about whom information is being requested has presented a valid protection document to the records custodian in accordance with the procedure set out in this subdivision (a)(15), and has requested that identifying information about such person be maintained as confidential, the records custodian shall redact or refuse to disclose to

the requestor any identifying information about such person.

(H) Nothing in this subdivision (a)(15) shall prevent the district attorney general and counsel for the defendant from providing to each other in a pending criminal case, where the constitutional rights of the defendant require it, information which otherwise would be held confidential under this subdivision (a)(15).

(16)(A) As used in this subdivision (a)(16), unless the context otherwise requires:

(i) "Governmental entity" means the state of Tennessee and any county, municipality, city or other political subdivision of the state of Tennessee;

(ii) "Identifying information" means the home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual;

(iii) "Protection document" means:

(a) An order of protection issued pursuant to title 36, chapter 3, part 6, that has been granted after proper notice and an opportunity to be heard;

(b) A similar order of protection issued by the court of another jurisdiction;

(c) An extension of an ex parte order of protection granted pursuant to § 36-3-605(a);

(d) A similar extension of an ex parte order of protection granted by a court of competent jurisdiction in another jurisdiction;

(e) A restraining order issued by a court of competent jurisdiction prohibiting violence against the person to whom it is issued;

(f) A court order protecting the confidentiality of certain information issued upon the request of a district attorney general to a victim or witness in a criminal case, whether pending or completed; and

(g) An affidavit from the director of a rape crisis center or domestic violence shelter certifying that an individual is a victim in need of protection; provided, that such affidavit is on a standardized form to be developed and distributed to such centers and shelters by the Tennessee task force against domestic violence.

(B) If the procedure set out in this subdivision (a)(16) is followed, identifying information compiled and maintained by a governmental entity concerning a person who has obtained a valid protection document may be treated as confidential and may not be open for inspection by the public.

(C) For subdivision (a)(16)(B) to be applicable, a copy of the protection document must be presented during regular business hours by the person to whom it was granted to the records custodian of the governmental entity whose records such person seeks to make confidential, and such person must request that all identifying information about such person be maintained as confidential.

(D) The protection document presented must at the time of presentation be in full force and effect. The records custodian may assume that a protection document is in full force and effect if it is on the proper form and if on its face it has not expired.

(E) Upon being presented with a valid protection document, the record custodian may accept receipt of it. If the records custodian does not accept

receipt of such document, the records custodian shall explain to the person presenting the document why receipt cannot be accepted and that the identifying information concerning such person will not be maintained as confidential. If the records custodian does accept receipt of the protection document, such records custodian shall maintain it in a separate file containing in alphabetical order all protection documents presented to such custodian pursuant to this subdivision (a)(16). Nothing in this subdivision (a)(16) shall be construed as prohibiting a records custodian from maintaining an electronic file of such protection documents; provided, that the custodian retains the original document presented.

(F) Identifying information concerning a person that is maintained as confidential pursuant to this subdivision (a)(16) shall remain confidential until the person requesting such confidentiality notifies in person the appropriate records custodian of the governmental entity that there is no longer a need for such information to remain confidential. A records custodian receiving such notification shall remove the protection document concerning such person from the file maintained pursuant to subdivision (a)(16)(E), and the identifying information about such person shall be treated in the same manner as identifying information maintained by the governmental entity about other persons. Before removing the protection document and releasing any identifying information, the records custodian of the governmental entity shall require that the person requesting release of the identifying information maintained as confidential produce sufficient identification to satisfy such records custodian that that person is the same person as the person to whom the document was originally granted.

(G)(i) After July 1, 1999, if:

(a) Information is requested from a governmental entity about a person other than the person making the request;

(b) Such request is for information that is in whole or in part identifying information; and

(c) The records custodian of the governmental entity to whom the request was made accepts receipt of protection documents and maintains identifying information as confidential;

(ii) then such records custodian shall check the separate file containing all protection documents that have been presented to such entity. If the person about whom information is being requested has presented a valid protection document to the records custodian in accordance with the procedure set out in this subdivision (a)(16), and has requested that identifying information about such person be maintained as confidential, the records custodian shall redact or refuse to disclose to the requestor any identifying information about such person.

(H) Nothing in this subdivision (a)(16) shall prevent the district attorney general and counsel for the defendant from providing to each other in a pending criminal case, where the constitutional rights of the defendant require it, information which otherwise may be held confidential under this subdivision (a)(16).

(I) In an order of protection case, any document required for filing, other than the forms promulgated by the supreme court pursuant to § 36-3-604(b), shall be treated as confidential and kept under seal except that the clerk may transmit any such document to the Tennessee bureau of investigation, 911 service or emergency response agency or other law

enforcement agency.

(17) The telephone number, address, and any other information which could be used to locate the whereabouts of a domestic violence shelter, family safety center, rape crisis center, or human trafficking service provider, as defined in § 36-3-623, may be treated as confidential by a governmental entity, and shall be treated as confidential by a utility service provider, as defined in subdivision (a)(15), upon the director of the shelter, family safety center, crisis center, or human trafficking service provider giving written notice to the records custodian of the appropriate entity or utility that such shelter, family safety center, crisis center, or human trafficking service provider desires that such identifying information be maintained as confidential. The records of family safety centers shall be treated as confidential in the same manner as the records of domestic violence shelters pursuant to § 36-3-623.

(18) Computer programs, software, software manuals, and other types of information manufactured or marketed by persons or entities under legal right and sold, licensed, or donated to Tennessee state boards, agencies, political subdivisions, or higher education institutions shall not be open to public inspection; provided, that computer programs, software, software manuals, and other types of information produced by state or higher education employees at state expense shall be available for inspection as part of an audit or legislative review process.

(19) Credit card account numbers and any related personal identification numbers (PIN) or authorization codes in the possession of the state or a political subdivision thereof shall be maintained as confidential and shall not be open for inspection by members of the public.

(20)(A) For the purposes of this subdivision (a)(20), the following terms shall have the following meaning:

(i) "Consumer" means any person, partnership, limited partnership, corporation, professional corporation, limited liability company, trust, or any other entity, or any user of a utility service;

(ii) "Municipal" and "municipality" means a county, metropolitan government, incorporated city, town of the state, or utility district as created in title 7, chapter 82;

(iii) "Private records" means a credit card number, social security number, tax identification number, financial institution account number, burglar alarm codes, security codes, access codes, and consumer-specific energy and water usage data except for aggregate monthly billing information; and

(iv) "Utility" includes any public electric generation system, electric distribution system, water storage or processing system, water distribution system, gas storage system or facilities related thereto, gas distribution system, wastewater system, telecommunications system, or any services similar to any of the foregoing.

(B) The private records of any utility shall be treated as confidential and shall not be open for inspection by members of the public.

(C) Information made confidential by this subsection (a) shall be redacted wherever possible and nothing in this subsection (a) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains confidential information. For purposes of this section only, it shall be presumed that redaction of such information is possible. The entity requesting the records shall pay all reasonable costs

associated with redaction of materials.

(D) Nothing in this subsection (a) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(E) Nothing in this subsection (a) shall be construed to limit access to information made confidential under this subsection (a), when the consumer expressly authorizes the release of such information.

(21)(A) The following records shall be treated as confidential and shall not be open for public inspection:

(i) Records that would allow a person to identify areas of structural or operational vulnerability of a utility service provider or that would permit unlawful disruption to, or interference with, the services provided by a utility service provider;

(ii) All contingency plans of a governmental entity prepared to respond to or prevent any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident.

(B) Documents concerning the cost of governmental utility property, the cost of protecting governmental utility property, the cost of identifying areas of structural or operational vulnerability of a governmental utility, the cost of developing contingency plans for a governmental entity, and the identity of vendors providing goods or services to a governmental entity in connection with the foregoing shall not be confidential. However, any documents relating to these subjects shall not be made available to the public unless information that is confidential under this subsection (a) or any other provision of this chapter has been redacted or deleted from the documents.

(C) As used in this subdivision (a)(21):

(i) "Governmental entity" means the state of Tennessee or any county, municipality, city or other political subdivision of the state of Tennessee;

(ii) "Governmental utility" means a utility service provider that is also a governmental entity; and

(iii) "Utility service provider" means any entity, whether public or private, that provides electric, gas, water, sewer or telephone service, or any combination of the foregoing, to citizens of the state of Tennessee, whether or not regulated by the Tennessee public utility commission.

(D) Nothing in this subdivision (a)(21) shall be construed to limit access to these records by other governmental agencies performing official functions or to preclude any governmental agency from allowing public access to these records in the course of performing official functions.

(22) The following records shall be treated as confidential and shall not be open for public inspection:

(A) The audit working papers of the comptroller of the treasury and state, county and local government internal audit staffs conducting audits as authorized by § 4-3-304. For purposes of this subdivision (a)(22) "audit working papers" includes, but is not limited to, auditee records, intra-agency and interagency communications, draft reports, schedules, notes, memoranda and all other records relating to an audit or investigation;

(B) All information and records received or generated by the comptroller of the treasury containing allegations of unlawful conduct or fraud,

waste or abuse;

(C) All examinations administered by the comptroller of the treasury as part of the assessment certification and education program, including, but not limited to, the total bank of questions from which the tests are developed, the answers, and the answer sheets of individual test takers; and

(D) Survey records, responses, data, identifying information as defined in subdivision (a)(15), intra-agency and interagency communications, and other records received to serve as input for any survey created, obtained, or compiled by the comptroller of the treasury; provided, however, this subdivision (a)(22)(D) shall not apply to any survey conducted by the office of open records counsel, created by § 8-4-601.

(23) All records containing the results of individual teacher evaluations administered pursuant to the policies, guidelines, and criteria adopted by the state board of education under § 49-1-302 shall be treated as confidential and shall not be open to the public. Nothing in this subdivision (a)(23) shall be construed to prevent the LEA, public charter school, state board of education, or department of education from accessing and utilizing such records as required to fulfill their lawful functions. Lawful functions shall include the releasing of such records to parties conducting research in accordance with § 49-1-606(b).

(24) All proprietary information provided to the alcoholic beverage commission shall be treated as confidential and shall not be open for inspection by members of the public. As used in this subdivision (a)(24), "proprietary information" means commercial or financial information which is used either directly or indirectly in the business of any person or company submitting information to the alcoholic beverage commission and which gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information.

(25) A voluntary association that establishes and enforces bylaws or rules for interscholastic sports competition for secondary schools in this state shall have access to records or information from public, charter, non-public, other schools, school officials and parents or guardians of school children as is required to fulfill its duties and functions. Records or information relating to academic performance, financial status of a student or the student's parent or guardian, medical or psychological treatment or testing, and personal family information in the possession of such association shall be confidential.

(26)(A) Job performance evaluations of the following employees shall be treated as confidential and shall not be open for public inspection:

- (i) Employees of the department of treasury;
- (ii) Employees of the comptroller of the treasury;
- (iii) Employees of the secretary of state's office; and
- (iv) Employees of public institutions of higher education.

(B) For purposes of this subdivision (a)(26), "job performance evaluations" includes, but is not limited to, job performance evaluations completed by supervisors, communications concerning job performance evaluations, self-evaluations of job performance prepared by employees, job performance evaluation scores, drafts, notes, memoranda, and all other records relating to job performance evaluations.

(C) Nothing in this subdivision (a)(26) shall be construed to limit access to those records by law enforcement agencies, courts, or other government-

tal agencies performing official functions.

(27) E-mail addresses collected by the department of state's division of business services, except those that may be contained on filings submitted pursuant to title 47, chapter 9, or § 55-3-126(f), shall be treated as confidential and shall not be open to inspection by members of the public.

(28) Proposals and statements of qualifications received by a local government entity in response to a personal service, professional service, or consultant service request for proposals or request for qualifications solicitation, and related records, including, but not limited to, evaluations, names of evaluation committee members, and all related memoranda or notes, shall not be open for public inspection until the intent to award the contract to a particular respondent is announced.

(29)(A) No governmental entity shall publicly disclose personally identifying information of any citizen of the state unless:

- (i) Permission is given by the citizen;
- (ii) Distribution is authorized under state or federal law; or
- (iii) Distribution is made:
 - (a) To a consumer reporting agency as defined by the federal Fair Credit Reporting Act (15 U.S.C. §§ 1681 et seq.);
 - (b) To a financial institution subject to the privacy provisions of the federal Gramm Leach Bliley Act (15 U.S.C. § 6802); or
 - (c) To a financial institution subject to the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (31 U.S.C. §§ 5311 et seq.).

(B)(i) This subdivision (a)(29) does not prohibit the use of personally identifying information by a governmental entity in the performance of its functions or the disclosure of personally identifying information to another governmental entity, or an agency of the federal government, or a private person or entity that has been authorized to perform certain duties as a contractor of the governmental entity.

(ii) Any person or entity receiving personally identifying information from a governmental entity shall be subject to the same confidentiality provisions as the disclosing entity; provided, however, that the confidentiality provisions applicable to a consumer reporting agency or financial institution as defined in subdivision (a)(29)(A)(iii) shall be governed by federal law.

(C) For purposes of this subdivision (a)(29), "personally identifying information" means:

- (i) Social security numbers;
- (ii) Official state or government issued driver licenses or identification numbers;
- (iii) Alien registration numbers or passport numbers;
- (iv) Employer or taxpayer identification numbers;
- (v) Unique biometric data, such as fingerprints, voice prints, retina or iris images, or other unique physical representations; or
- (vi) Unique electronic identification numbers, routing codes or other personal identifying data which enables an individual to obtain merchandise or service or to otherwise financially encumber the legitimate possessor of the identifying data.

(30)(A) Proprietary information, trade secrets, and marketing information submitted to any food-based business incubation service provider created by a municipality shall be treated as confidential and shall not be

open for inspection by members of the public.

(B) As used in this subdivision (a)(30):

(i) "Proprietary information":

(a) Means commercial or financial information that is used either directly or indirectly in the business of any person or company submitting information to a food-based business incubation service provider, and that gives such person or company an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information; and

(b) Does not include lease agreements with the incubation service provider, the identity of businesses or persons using the incubation service provider's services, amounts paid to the incubation service provider by businesses or persons for use of facilities or for other services, or financial records of the incubation service provider;

(ii) "Marketing information" means marketing studies, marketing analyses, and similar research and information designed to identify potential customers and business relationships; and

(iii) "Trade secret" means a manufacturing process, materials used therein, and costs associated with the manufacturing process of any person or company submitting information to a food-based business incubation service provider.

(31) **[Effective until June 30, 2026.]**

(A) Except as provided in subdivisions (a)(31)(B)-(D), personally identifying information of any person named in any motor vehicle accident report is confidential and not open for public inspection.

(B) Notwithstanding subdivision (a)(31)(A) and upon written request, any person named in any motor vehicle accident report, or such person's agent, legal representative, or attorney, certifying that the person has permission from the person, persons, or entities authorized to obtain motor vehicle records information pursuant to § 55-25-107(b)(1), (b)(6) or (b)(9), is authorized to receive an accident report containing personally identifying information of persons involved in the accident.

(C) Notwithstanding subdivision (a)(31)(A), any federal, state, or local governmental agency, or any private person or entity acting on behalf of a federal, state, or local governmental agency, may use personally identifying information in carrying out the agency's functions.

(D) Nothing in this subdivision (a)(31) prevents a law enforcement entity from releasing information about traffic accidents to the public, including the name, age, and county or city of residence of a person involved in an accident, when the law enforcement entity determines such release is in the best interest of the agency and for the public good.

(E) For purposes of this subdivision (a)(31), "personally identifying information" means:

(i) Street addresses and zip codes;

(ii) Telephone numbers;

(iii) Driver license numbers; and

(iv) Insurance information.

(F) This subdivision (a)(31) is repealed June 30, 2026.

(b) Any record designated "confidential" shall be so treated by agencies in the maintenance, storage and disposition of such confidential records. These

records shall be destroyed in such a manner that they cannot be read, interpreted or reconstructed. The destruction shall be in accordance with an approved records disposition authorization from the public records commission.

(c) Notwithstanding any law to the contrary, any confidential public record in existence more than seventy (70) years shall be open for public inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law or unless the record is a record of services for a person for mental illness or intellectual and developmental disabilities. This section does not apply to a record concerning an adoption or a record maintained by the office of vital records or by the Tennessee bureau of investigation. For the purpose of providing an orderly schedule of availability for access to such confidential public records for public inspection, all records created and designated as confidential prior to January 1, 1901, shall be open for public inspection on January 1, 1985. All other public records created and designated as confidential after January 1, 1901 and which are seventy (70) years of age on January 1, 1985, shall be open for public inspection on January 1, 1986; thereafter all such records shall be open for public inspection pursuant to this part after seventy (70) years from the creation date of such records.

(d) Records of any employee's identity, diagnosis, treatment, or referral for treatment that are maintained by any state or local government employee assistance program shall be confidential; provided, that any such records are maintained separately from personnel and other records regarding such employee that are open for inspection. For purposes of this subsection (d), "employee assistance program" means any program that provides counseling, problem identification, intervention, assessment, or referral for appropriate diagnosis and treatment, and follow-up services to assist employees of such state or local governmental entity who are impaired by personal concerns including, but not limited to, health, marital, family, financial, alcohol, drug, legal, emotional, stress or other personal concerns which may adversely affect employee job performance.

(e) Unpublished telephone numbers in the possession of emergency communications districts created pursuant to title 7, chapter 86, or the emergency communications board created pursuant to § 7-86-302 or its designated agent shall be treated as confidential and shall not be open for inspection by members of the public until such time as any provision of the service contract between the telephone service provider and the consumer providing otherwise is effectuated; provided, that addresses held with such unpublished telephone numbers, or addresses otherwise collected or compiled, and in the possession of emergency communications districts created pursuant to title 7, part 86, or the emergency communications board created pursuant to § 7-86-302 or its designated agent shall be made available upon written request to any county election commission for the purpose of compiling a voter mailing list for a respective county.

(f)(1) The following records or information of any state, county, municipal or other public employee or former employee, or applicant to such position, or of any law enforcement officer commissioned pursuant to § 49-7-118, in the possession of a governmental entity or any person in its capacity as an employer shall be treated as confidential and shall not be open for inspection by members of the public:

(A) Home telephone and personal cell phone numbers;

(B) Bank account and individual health savings account, retirement account and pension account information; provided, that nothing shall limit access to financial records of a governmental employer that show the amounts and sources of contributions to the accounts or the amount of pension or retirement benefits provided to the employee or former employee by the governmental employer;

(C) Social security number;

(D)(i) Residential information, including the street address, city, state and zip code, for any state employee; and

(ii) Residential street address for any county, municipal or other public employee;

(E) Driver license information except where driving or operating a vehicle is part of the employee's job description or job duties or incidental to the performance of the employee's job;

(F) The information listed in subdivisions (f)(1)(A)-(E) of immediate family members, whether or not the immediate family member resides with the employee, or household members;

(G) Emergency contact information, except for that information open to public inspection in accordance with subdivision (f)(1)(D)(ii); and

(H) Personal, nongovernment issued, email address.

(2) Information made confidential by this subsection (f) shall be redacted wherever possible and nothing in this subsection (f) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains confidential information.

(3) Nothing in this subsection (f) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(4) Nothing in this subsection (f) shall be construed to close any personnel records of public officers which are currently open under state law.

(5) Nothing in this subsection (f) shall be construed to limit access to information made confidential under this subsection (f), when the employee expressly authorizes the release of such information.

(6) Notwithstanding any provision to the contrary, the bank account information for any state, county, municipal, or other public employee, former employee or applicant to such position, or any law enforcement officer commissioned pursuant to § 49-7-118, that is received, compiled or maintained by the department of treasury, shall be confidential and not open for inspection by members of the public, regardless of whether the employee is employed by the department of treasury. The bank account information that shall be kept confidential shall include, but not be limited to bank account numbers, transit routing numbers and the name of the financial institutions.

(7) Notwithstanding any provision to the contrary, the following information that is received, compiled or maintained by the department of treasury relating to the department's investment division employees who are so designated in writing by the state treasurer shall be kept confidential and not open for inspection by members of the public: holdings reports, confirmations, transaction reports and account statements relative to securities, investments or other assets disclosed by the employee to the employer, or authorized by the employee to be released to the employer directly or otherwise.

(8)(A) Any person required by law to treat information described in subdivision (f)(1)(D) as confidential commits an offense if such information

pertains to a law enforcement officer or a county corrections officer and:

(i) The person acts with criminal negligence, as defined in § 39-11-106, in releasing the information to the public; or

(ii) The person knows the information is to be treated as confidential and intentionally releases the information to the public.

(B)(i) A violation of subdivision (f)(8)(A)(i) is a Class B misdemeanor punishable only by a fine of five hundred dollars (\$500).

(ii) A violation of subdivision (f)(8)(A)(ii) is a Class A misdemeanor.

(C) Subdivision (f)(8)(A) shall not apply if:

(i) The law enforcement officer or county corrections officer whose information is treated as confidential under subdivision (f)(1)(D) expressly authorizes the release of such information; or

(ii) The information is released pursuant to court order.

(g)(1)(A)(i) All law enforcement personnel information in the possession of any entity or agency in its capacity as an employer, including officers commissioned pursuant to § 49-7-118, shall be open for inspection as provided in § 10-7-503(a), except personal information shall be redacted where there is a reason not to disclose as determined by the chief law enforcement officer or the chief law enforcement officer's designee.

(ii) When a request to inspect includes personal information and the request is for a professional, business, or official purpose, the chief law enforcement officer or custodian shall consider the specific circumstances to determine whether there is a reason not to disclose and shall release all information, except information made confidential in subsection (f), if there is not such a reason. In all other circumstances, the officer shall be notified prior to disclosure of the personal information and shall be given a reasonable opportunity to be heard and oppose the release of the information. Nothing in this subdivision (g)(1) shall be construed to limit the requestor's right to judicial review set out in § 10-7-505.

(iii) The chief law enforcement officer shall reserve the right to segregate information that could be used to identify or to locate an officer designated as working undercover.

(B) In addition to the requirements of § 10-7-503(c), the request for a professional, business, or official purpose shall include the person's business address, business telephone number and email address. The request may be made on official or business letterhead and the person making the request shall provide the name and contact number or email address for a supervisor for verification purposes.

(C) If the chief law enforcement official, the chief law enforcement official's designee, or the custodian of the information decides to withhold personal information, a specific reason shall be given to the requestor in writing within two (2) business days, and the file shall be released with the personal information redacted.

(D) For purposes of this subsection (g), personal information shall include the officer's residential address, home and personal cellular telephone number; place of employment; name, work address and telephone numbers of the officer's immediate family; name, location, and telephone number of any educational institution or daycare provider where the officer's spouse or child is enrolled.

(2) Nothing in this subsection (g) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains

some information made confidential by subdivision (g)(1).

(3) Nothing in this subsection (g) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(4) Except as provided in subdivision (g)(1), nothing in this subsection (g) shall be construed to close personnel records of public officers, which are currently open under state law.

(5) Nothing in this subsection (g) shall be construed to limit access to information made confidential by subdivision (g)(1), when the employee expressly authorizes the release of such information.

(h)(1) Notwithstanding any other law to the contrary, those parts of the record identifying an individual or entity as a person or entity who or that has been or may in the future be directly involved in the process of executing a sentence of death shall be treated as confidential and shall not be open to public inspection. For the purposes of this section “person or entity” includes, but is not limited to, an employee of the state who has training related to direct involvement in the process of executing a sentence of death, a contractor or employee of a contractor, a volunteer who has direct involvement in the process of executing a sentence of death, or a person or entity involved in the procurement or provision of chemicals, equipment, supplies and other items for use in carrying out a sentence of death. Records made confidential by this section include, but are not limited to, records related to remuneration to a person or entity in connection with such person’s or entity’s participation in or preparation for the execution of a sentence of death. Such payments shall be made in accordance with a memorandum of understanding between the commissioner of correction and the commissioner of finance and administration in a manner that will protect the public identity of the recipients; provided, that, if a contractor is employed to participate in or prepare for the execution of a sentence of death, the amount of the special payment made to such contractor pursuant to the contract shall be reported by the commissioner of correction to the comptroller of the treasury and such amount shall be a public record.

(2) Information made confidential by this subsection (h) shall be redacted wherever possible and nothing in this subsection (h) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains confidential information.

(i)(1) Information that would allow a person to obtain unauthorized access to confidential information or to government property shall be maintained as confidential. For the purpose of this section, “government property” includes electronic information processing systems, telecommunication systems, or other communications systems of a governmental entity subject to this chapter. For the purpose of this section, “governmental entity” means the state of Tennessee and any county, municipality, city or other political subdivision of the state of Tennessee. Such records include:

(A) Plans, security codes, passwords, combinations, or computer programs used to protect electronic information and government property;

(B) Information that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and

(C) Information that could be used to disrupt, interfere with, or gain unauthorized access to electronic information or government property.

(2) Information made confidential by this subsection (i) shall be redacted wherever possible and nothing in this subsection (i) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains confidential information.

(3)(A) Documents concerning the cost of protecting government property or electronic information shall not be confidential.

(B) The identity of a vendor that provides to the state goods and services used to protect electronic information processing systems, telecommunication and other communication systems, data storage systems, government employee information, or citizen information shall be confidential.

(C) The identity of a vendor that provides to a governmental entity other than the state goods and services used to protect electronic information processing systems, telecommunication and other communication systems, data storage systems, government employee information, or citizen information shall not be confidential; provided, that the identity of the vendor shall be confidential if the governing body of the governmental entity votes affirmatively to make such information confidential.

(D) Notwithstanding subdivisions (i)(3)(B) and (C), a governmental entity shall, upon request, provide the identity of a vendor to the comptroller of the treasury, the fiscal review committee of the general assembly, and any member of the general assembly. If the identity of the vendor is confidential under subdivision (i)(3)(B) or (i)(3)(C), the comptroller, fiscal review committee, or member shall exercise reasonable care in maintaining the confidentiality of the identity of the vendor obtained under this subdivision (i)(3)(D).

(j)(1) Notwithstanding any other law to the contrary, identifying information compiled and maintained by the department of correction and the board of parole concerning any person shall be confidential when the person has been notified or requested that notification be provided to the person regarding the status of criminal proceedings or of a convicted felon incarcerated in a department of correction institution, county jail or workhouse or under state supervised probation or parole pursuant to § 40-28-505, § 40-38-103, § 40-38-110, § 40-38-111, § 41-21-240 or § 41-21-242.

(2) For purposes of subdivision (j)(1), "identifying information" means the name, home and work addresses, telephone numbers and social security number of the person being notified or requesting that notification be provided.

(k) The following information regarding victims who apply for compensation under the Criminal Injuries Compensation Act, compiled in title 29, chapter 13, shall be treated as confidential and shall not be open for inspection by members of the public:

(1) Residential information, including the street address, city, state and zip code;

(2) Home telephone and personal cell phone numbers;

(3) Social security number; and

(4) The criminal offense from which the victim is receiving compensation.

(l)(1) All applications, certificates, records, reports, legal documents and petitions made or information received pursuant to title 37 that directly or indirectly identifies a child or family receiving services from the department of children's services or that identifies the person who made a report of harm

pursuant to § 37-1-403 or § 37-1-605 shall be confidential and shall not be open for public inspection, except as provided by §§ 37-1-131, 37-1-409, 37-1-612, 37-5-107 and 49-6-3051.

(2) The information made confidential pursuant to subdivision (l)(1) includes information contained in applications, certifications, records, reports, legal documents and petitions in the possession of not only the department of children's services but any state or local agency, including, but not limited to, law enforcement and the department of education.

(m)(1) Information and records that are directly related to the security of any government building shall be maintained as confidential and shall not be open to public inspection. For purposes of this subsection (m), "government building" means any building that is owned, leased or controlled, in whole or in part, by the state of Tennessee or any county, municipality, city or other political subdivision of the state of Tennessee. Such information and records include, but are not limited to:

(A) Information and records about alarm and security systems used at the government building, including codes, passwords, wiring diagrams, plans and security procedures and protocols related to the security systems;

(B) Security plans, including security-related contingency planning and emergency response plans;

(C) Assessments of security vulnerability;

(D) Information and records that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and

(E) Surveillance recordings, whether recorded to audio or visual format, or both, except segments of the recordings may be made public when they include an act or incident involving public safety or security or possible criminal activity. In addition, if the recordings are relevant to a civil action or criminal prosecution, then the recordings may be released in compliance with a subpoena or an order of a court of record in accordance with the Tennessee rules of civil or criminal procedure. The court or administrative judge having jurisdiction over the proceedings shall issue appropriate protective orders, when necessary, to ensure that the information is disclosed only to appropriate persons. Release of any segment or segments of the recordings shall not be construed as waiving the confidentiality of the remaining segments of the audio or visual tape.

(2) Information made confidential by this subsection (m) shall be redacted wherever possible and nothing in this subsection (m) shall be used to limit or deny access to otherwise public information because a file or document contains confidential information.

(n)(1) Notwithstanding any law to the contrary, the following documents submitted to the state in response to a request for proposal or other procurement method shall remain confidential after completion of the evaluation period:

(A) Discount, rebate, pricing or other financial arrangements at the individual drug level between pharmaceutical manufacturers, pharmaceutical wholesalers/distributors, and pharmacy benefits managers, as defined in § 56-7-3102, that a proposer:

(i) Submits to the state in response to a request for proposals or other

procurement methods for pharmacy-related benefits or services;

(ii) Includes in its cost or price proposal, or provides to the state after the notice of intended award of the contract is issued, where the proposer is the apparent contract awardee; and

(iii) Explicitly marks as confidential and proprietary; and

(B) Discount, rebate, pricing or other financial arrangements at the individual provider level between health care providers and health insurance entities, as defined in § 56-7-109, insurers, insurance arrangements and third party administrators that a proposer:

(i) Submits to the state in response to a request for proposals or other procurement method after the notice of intended award of the contract is issued, where the proposer is the apparent contract awardee, in response to a request by the state for additional information; and

(ii) Explicitly marks as confidential and proprietary.

(2)(A) Information made confidential by subdivision (n)(1) shall be redacted wherever possible; and nothing contained in this subsection (n) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains confidential information. The confidentiality established by subdivision (n)(1)(B) is applicable only to information submitted to the state after completion of the evaluation period; and provision of the notice of intended award of the contract and such information shall only be used to validate the accuracy of the apparent contract awardee's proposal and shall not be used to alter the scope of the information required by the state's procurement document requesting proposals. Any report produced by the state, or on the state's behalf, utilizing the information made confidential by subdivision (n)(1)(B) shall not be considered confidential hereunder so long as such report is disclosed in an aggregate or summary format without disclosing discount, rebate, pricing or other financial arrangements at the individual provider level.

(B) The comptroller of the treasury, for the purpose of conducting audits or program evaluations, shall have access to the discount, rebate, pricing and descriptions of other financial arrangements cited in this subsection (n) as submitted in a procurement or as a report to the contractor; provided, however, that no official, employee or agent of the state of Tennessee may release or provide for the release, in any form, of information subject to confidential custody under this subsection (n).

(o)(1) Except as provided in subdivisions (o)(2)-(4), the following information and records are confidential, not open or available for public inspection and shall not be released in any manner:

(A) All information contained in any application for a handgun carry permit issued pursuant to § 39-17-1351, a permit renewal application, or contained in any materials required to be submitted in order to obtain such a permit;

(B) All information provided to any state or federal agency, to any county, municipality, or other political subdivision, to any official, agent, or employee of any state or federal agency, or obtained by any state or federal agency in the course of its investigation of an applicant for a handgun carry permit; and

(C) Any and all records maintained relative to an application for a handgun carry permit issued pursuant to § 39-17-1351, a permit renewal

application, the issuance, renewal, expiration, suspension, or revocation of a handgun carry permit, or the result of any criminal history record check conducted under this part.

(2) Any information or other records regarding an applicant or permit holder may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution, or for determining the validity of a handgun carry permit, or to a child support enforcement agency for purposes of child support enforcement, but shall not be publicly disclosed except as evidence in a criminal or child support enforcement proceeding.

(3) Any person or entity may request the department of safety to search its handgun permit holder database to determine if a named person has a Tennessee handgun carry permit, as of the date of the request, if the person or entity presents with the request a judgment of conviction, criminal history report, order of protection, or other official government document or record that indicates the named person is not eligible to possess a handgun carry permit under the requirements of § 39-17-1351.

(4) Nothing in this subsection (o) shall prohibit release of the handgun carry permit statistical reports authorized by § 39-17-1351(s).

(p) Information, records, and plans that are related to school security, the district-wide school safety plans or the building-level school safety plans shall not be open to public inspection. Nothing in this part shall be interpreted to prevent school administrators of an LEA from discussing or distributing information to parents or legal guardians of children attending the school regarding procedures for contacting or obtaining a child following a natural disaster.

(q)(1) Where a defendant has plead guilty to, or has been convicted of, and has been sentenced for a sexual offense or violent sexual offense specified in § 40-39-202, the following information regarding the victim of the offense shall be treated as confidential and shall not be open for inspection by members of the public:

- (A) Name, unless waived pursuant to subdivision (q)(2);
- (B) Home, work and electronic mail addresses;
- (C) Telephone numbers;
- (D) Social security number; and
- (E) Any photographic or video depiction of the victim.

(2)(A) At any time after the defendant or defendants in a case have been sentenced for an offense specified in subdivision (q)(1), the victim of such offense whose name is made confidential pursuant to subdivision (q)(1)(A) may waive such provision and allow the victim's name to be obtained in the same manner as other public records.

(B) The district attorney general prosecuting the case shall notify the victim that the victim has the right to waive the confidentiality of the information set forth in subdivision (q)(1)(A).

(C) If the victim executes a written waiver provided by the district attorney general's office to waive confidentiality pursuant to subdivision (q)(2)(A), the waiver shall be filed in the defendant's case file in the office of the court of competent jurisdiction.

(3) Nothing in this subsection (q) shall prevent the district attorney general or attorney general and reporter and counsel for a defendant from providing to each other in a pending criminal case or appeal, where the constitutional rights of the defendant require it, information which other-

wise may be held confidential under this subsection (q).

(4) Nothing in this subsection (q) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains some information made confidential by subdivision (q)(1); provided, that confidential information shall be redacted before any access is granted to a member of the public.

(5) Nothing in this subsection (q) shall be construed to limit access to records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(r) Notwithstanding any provision to the contrary, any bank account information that is received, compiled, or maintained by a state governmental agency, shall be confidential and shall not be an open record for inspection by members of the public. The bank account information that shall be kept confidential includes, but is not limited to, debit card numbers and any related personal identification numbers (PINs) or authorization codes, bank account numbers, and transit routing numbers.

(s) The records of the insurance verification program created pursuant to the James Lee Atwood Jr. Law, compiled in title 55, chapter 12, part 2, in the possession of the department of revenue or its agent, the department of safety, the department of commerce and insurance, law enforcement, and the judiciary pursuant to the James Lee Atwood Jr. Law, shall be treated as confidential and shall not be open for inspection by members of the public. Subsection (c) shall not apply to the records described in this subsection (s).

(t)(1) The following information concerning the victim of a criminal offense who is a minor shall be treated as confidential and shall not be open for inspection by members of the public:

- (A) Name, unless waived pursuant to subdivision (t)(2);
- (B) Home, work, and electronic mail addresses;
- (C) Telephone numbers;
- (D) Social security number;
- (E) Any photographic or video depiction of the minor victim; and
- (F) Whether the defendant is related to the victim unless the relationship is an essential element of the offense.

(2) The custodial parent or legal guardian of the minor victim of an offense whose name is made confidential pursuant to subdivision (t)(1)(A) may petition a court of record to waive confidentiality and allow the minor victim's name to be obtained in the same manner as other public records. Upon finding good cause shown, the court shall enter the order granting the waiver.

(3) This subsection (t) shall not be construed to:

- (A) Restrict the application of Rule 16 of the Tennessee Rules of Criminal Procedure in any court or the disclosure of information required of counsel by the state or federal constitution;
- (B) Limit or deny access to otherwise public information because a file, document, or data file contains some information made confidential by subdivision (t)(1); provided, that confidential information shall be redacted before any access is granted to a member of the public;
- (C) Limit access to records by law enforcement agencies, courts, or other governmental agencies performing official functions; or
- (D) Limit or prevent law enforcement from releasing information included in this subsection (t) for the purposes of locating and identifying

missing, exploited, or abducted minors.

(u) **[Effective until July 1, 2022. See the Compiler's Notes.]**

(1) Video taken by a law enforcement body camera that depicts the following shall be treated as confidential and not subject to public inspection:

(A) Minors, when taken within a school that serves any grades from kindergarten through grade twelve (K-12);

(B) The interior of a facility licensed under title 33 or title 68; or

(C) The interior of a private residence that is not being investigated as a crime scene.

(2) Nothing in this subsection (u) shall prevent the district attorney general or attorney general and reporter and counsel for a defendant charged with a criminal offense from providing to each other in a pending criminal case or appeal, where the constitutional rights of the defendant require it, information which otherwise may be held confidential under this subsection (u).

(3) Nothing in this subsection (u) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains some information made confidential by subdivision (u)(1); provided, that confidential information shall be redacted before any access is granted to a member of the public.

(4) Nothing in this subsection (u) shall be construed to limit access to records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(5) This subsection (u) is deleted on July 1, 2022, and shall no longer be effective on and after such date.

(v) Notwithstanding any law to the contrary, examination questions, answer sheets, scoring keys, and other examination data used for the purpose of licensure, certification, or registration of health professionals under title 63 or title 68 shall be treated as confidential and shall not be open for inspection by members of the public; provided, however, that:

(1) A person who has taken such an examination has the right to review the person's own completed examination; and

(2) Final examination scores of persons licensed, certified, or registered as health professionals under title 63 or title 68 shall be open for inspection by members of the public, upon request.

(w)(1) Notwithstanding any law to the contrary, information that is reasonably likely to identify a student accused of committing an alleged sexual offense or alleged violent sexual offense as defined in § 40-39-202 or any information that is reasonably likely to identify the victim of an alleged sexual offense or alleged violent sexual offense as defined in § 40-39-202, must be treated as confidential and not be open for inspection by members of the public.

(2) Nothing in this subsection (w):

(A) Limits or denies access to otherwise public information because a file, document, or data file contains information that is reasonably likely to identify a student accused of committing a sexual offense or violent sexual offense or the victim of a sexual offense or violent sexual offense; however, all information that is reasonably likely to identify a student accused of committing a sexual offense or violent sexual offense, or the victim of a sexual offense or violent sexual offense must be redacted before any access is granted to a member of the public for inspection;

(B) Prevents the district attorney general, the attorney general and reporter, or counsel for a defendant from providing to each other in a pending criminal case or appeal, where the constitutional rights of the defendant require it, information that otherwise may be held confidential under this subsection (w); or

(C) Limits access to records by law enforcement agencies, courts, or other governmental agencies or instrumentalities performing official functions.

(x) [Effective until July 1, 2026.]

(1) The following information regarding donors to the state museum is confidential and not open for inspection by members of the public, upon the donor's advance request; provided, however, that the museum may disclose such information as authorized or required by law:

(A) Residential information, including the street address, city, state, and zip code;

(B) Home telephone and personal cell phone numbers;

(C) Social security number;

(D) Electronic mail address; and

(E) Taxpayer identification number.

(2) This subsection (x) is repealed effective July 1, 2026.

10-7-504. Confidential records — Exceptions. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a)(1)(A) The medical records of patients in state, county, and municipal hospitals and medical facilities, and the medical records of persons receiving medical treatment, in whole or in part, at the expense of the state, county, or municipality, shall be treated as confidential and shall not be open for inspection by members of the public. Any records containing the source of body parts for transplantation or any information concerning persons donating body parts for transplantation shall be treated as confidential and shall not be open for inspection by members of the public. Individually identifiable health information collected, created, or prepared by the department of health shall be treated as confidential and shall not be open for inspection by members of the public; provided, however, that the department may disclose such information as authorized or required by law.

(B) As used in this subdivision (a)(1), "individually identifiable health information" means information related to the physical or mental health of an individual and that explicitly or by implication identifies the individual who is the subject of the information, including by name, address, birth date, death date, admission or discharge date, telephone number, facsimile number, electronic mail address, social security number, medical record number, health plan beneficiary number, account number, certificate or license number, biometric identifier, or any other identifying number, characteristic, or code.

(2)(A) All investigative records of the Tennessee bureau of investigation, the office of inspector general, all criminal investigative files of the department of agriculture and the department of environment and conservation, all criminal investigative files of the motor vehicle enforcement division of the department of safety relating to stolen vehicles or parts, all criminal

investigative files and records of the Tennessee alcoholic beverage commission, and all files of the handgun carry permit and driver license issuance divisions of the department of safety relating to bogus handgun carry permits and bogus driver licenses issued to undercover law enforcement agents shall be treated as confidential and shall not be open to inspection by members of the public. The information contained in such records shall be disclosed to the public only in compliance with a subpoena or an order of a court of record; provided, however, that such investigative records of the Tennessee bureau of investigation shall be open to inspection by elected members of the general assembly if such inspection is directed by a duly adopted resolution of either house or of a standing or joint committee of either house, or if such inspection is directed by a majority vote of the entire membership of an ad hoc committee appointed specifically to study unsolved civil rights crimes that occurred between 1938 and 1975 and that is composed only of elected members of the general assembly. Any record inspected pursuant to this exception shall maintain its confidentiality throughout the inspection. Records shall not be available to any member of the executive branch except to the governor and to those directly involved in the investigation in the specified agencies.

(B) The records of the departments of agriculture and environment and conservation and the Tennessee alcoholic beverage commission referenced in subdivision (a)(2)(A) shall cease to be confidential when the investigation is closed by the department or commission or when the court in which a criminal prosecution is brought has entered an order concluding all proceedings and the opportunity for direct appeal has been exhausted; provided, however, that any identifying information about a confidential informant or undercover law enforcement agent shall remain confidential.

(C) The Tennessee bureau of investigation, upon written request by an authorized person of a state governmental agency, is authorized to furnish and disclose to the requesting agency the criminal history, records and data from its files, and the files of the federal government and other states to which it may have access, for the limited purpose of determining whether a license or permit should be issued to any person, corporation, partnership or other entity, to engage in an authorized activity affecting the rights, property or interests of the public or segments thereof.

(3) The records, documents and papers in the possession of the military department which involve the security of the United States and/or the state of Tennessee, including, but not restricted to, national guard personnel records, staff studies and investigations, shall be treated as confidential and shall not be open for inspection by members of the public.

(4)(A) The records of students in public educational institutions shall be treated as confidential. Information in such records relating to academic performance, financial status of a student or the student's parent or guardian, medical or psychological treatment or testing shall not be made available to unauthorized personnel of the institution or to the public or any agency, except those agencies authorized by the educational institution to conduct specific research or otherwise authorized by the governing board of the institution, without the consent of the student involved or the parent or guardian of a minor student attending any institution of elementary or secondary education, except as otherwise provided by law or regulation pursuant thereto, and except in consequence of due legal process or in cases

when the safety of persons or property is involved. The governing board of the institution, the department of education, and the Tennessee higher education commission shall have access on a confidential basis to such records as are required to fulfill their lawful functions. Statistical information not identified with a particular student may be released to any person, agency, or the public; and information relating only to an individual student's name, age, address, dates of attendance, grade levels completed, class placement and academic degrees awarded may likewise be disclosed.

(B) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by the federal Family Educational Rights and Privacy Act (FERPA), codified in 20 U.S.C. § 1232g, an institution of post-secondary education shall disclose to an alleged victim of any crime of violence, as that term is defined in 18 U.S.C. § 16, or a nonforcible sex offense, the final results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime or offense with respect to such crime or offense.

(C) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an institution of post-secondary education shall disclose the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence, as that term is defined in 18 U.S.C. § 16, or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

(D) For the purpose of this section, the final results of any disciplinary proceeding:

- (i) Shall include only the name of the student, the violation committed, and any sanction imposed by the institution on that student;*
- (ii) May include the name of any other student, such as a victim or witness, only with the written consent of that other student; and*
- (iii) Shall only apply to disciplinary hearings in which the final results were reached on or after October 7, 1998.*

(E) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an educational institution shall disclose information provided to the institution under former § 40-39-106 [repealed], concerning registered sex offenders who are required to register under former § 40-39-103 [repealed].

(F) Notwithstanding the provisions of subdivision (a)(4)(A) to the contrary, unless otherwise prohibited by FERPA, an institution of higher education shall disclose to a parent or legal guardian of a student information regarding any violation of any federal, state, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol, a controlled substance or a controlled substance analogue, regardless of whether that information is contained in the student's education records, if:

- (i) The student is under twenty-one (21) years of age;*
- (ii) The institution determines that the student has committed a disciplinary violation with respect to such use or possession; and*
- (iii) The final determination that the student committed such a*

disciplinary violation was reached on or after October 7, 1998.

(G) Notwithstanding subdivision (a)(4)(A), § 37-5-107 or § 37-1-612, the institution shall release records to the parent or guardian of a victim or alleged victim of child abuse or child sexual abuse pursuant to § 37-1-403(i)(3) or § 37-1-605(d)(2). Any person or entity that is provided access to records under this subdivision (a)(4)(G) shall be required to maintain the records in accordance with state and federal laws and regulations regarding confidentiality.

(5)(A) The following books, records and other materials in the possession of the office of the attorney general and reporter which relate to any pending or contemplated legal or administrative proceeding in which the office of the attorney general and reporter may be involved shall not be open for public inspection:

(i) Books, records or other materials which are confidential or privileged by state law;

(ii) Books, records or other materials relating to investigations conducted by federal law enforcement or federal regulatory agencies, which are confidential or privileged under federal law;

(iii) The work product of the attorney general and reporter or any attorney working under the attorney general and reporter's supervision and control;

(iv) Communications made to or by the attorney general and reporter or any attorney working under the attorney general and reporter's supervision and control in the context of the attorney-client relationship; or

(v) Books, records and other materials in the possession of other departments and agencies which are available for public inspection and copying pursuant to §§ 10-7-503 and 10-7-506. It is the intent of this section to leave subject to public inspection and copying pursuant to §§ 10-7-503 and 10-7-506 such books, records and other materials in the possession of other departments even though copies of the same books, records and other materials which are also in the possession of the office of the attorney general and reporter are not subject to inspection or copying in the office of the attorney general and reporter; provided, that such records, books and materials are available for copying and inspection in such other departments.

(B) Books, records and other materials made confidential by this subsection (a) which are in the possession of the office of the attorney general and reporter shall be open to inspection by the elected members of the general assembly, if such inspection is directed by a duly adopted resolution of either house or of a standing or joint committee of either house and is required for the conduct of legislative business.

(C) Except for the provisions of subdivision (a)(5)(B), the books, records and materials made confidential or privileged by this subdivision (a)(5) shall be disclosed to the public only in the discharge of the duties of the office of the attorney general and reporter.

(6) State agency records containing opinions of value of real and personal property intended to be acquired for a public purpose shall not be open for public inspection until the acquisition thereof has been finalized. This shall not prohibit any party to a condemnation action from making discovery relative to values pursuant to the Rules of Civil Procedure as prescribed by

law.

(7) *Proposals received pursuant to personal service, professional service, and consultant service contract regulations, and related records, including evaluations and memoranda, shall be available for public inspection only after the completion of evaluation of same by the state. Sealed bids for the purchase of goods and services, and leases of real property, and individual purchase records, including evaluations and memoranda relating to same, shall be available for public inspection only after the completion of evaluation of same by the state.*

(8) *All investigative records and reports of the internal affairs division of the department of correction or of the department of children's services shall be treated as confidential and shall not be open to inspection by members of the public. However, an employee of the department of correction or of the department of children's services shall be allowed to inspect such investigative records and reports if the records or reports form the basis of an adverse action against the employee. An employee of the department of correction shall also be allowed to inspect such investigative records of the internal affairs division of the department of correction, or relevant portion thereof, prior to a due process hearing at which disciplinary action is considered or issued unless the commissioner of correction specifically denies in writing the employee's request to examine such records prior to the hearing. The release of reports and records shall be in accordance with the Tennessee Rules of Civil Procedure. The court or administrative judge having jurisdiction over the proceedings shall issue appropriate protective orders, when necessary, to ensure that the information is disclosed only to appropriate persons. The information contained in such records and reports shall be disclosed to the public only in compliance with a subpoena or an order of a court of record.*

(9)(A) *Official health certificates, collected and maintained by the state veterinarian pursuant to rule chapter 0080-2-1 of the department of agriculture, shall be treated as confidential and shall not be open for inspection by members of the public.*

(B) *Any data or records provided to or collected by the department of agriculture pursuant to the implementation and operation of premise identification or animal tracking programs shall be considered confidential and shall not be open for inspection by members of the public. Likewise, all contingency plans prepared concerning the department's response to agriculture-related homeland security events shall be considered confidential and shall not be open for inspection by members of the public. The department may disclose data or contingency plans to aid the law enforcement process or to protect human or animal health.*

(C) *Information received by the state that is required by federal law or regulation to be kept confidential shall be exempt from public disclosure and shall not be open for inspection by members of the public.*

(10)(A) *The capital plans, marketing information, proprietary information and trade secrets submitted to the Tennessee venture capital network at Middle Tennessee State University shall be treated as confidential and shall not be open for inspection by members of the public.*

(B) *As used in this subdivision (a)(10), unless the context otherwise requires:*

(i) *"Capital plans" means plans, feasibility studies, and similar research and information that will contribute to the identification of future*

business sites and capital investments;

(ii) *“Marketing information” means marketing studies, marketing analyses, and similar research and information designed to identify potential customers and business relationships;*

(iii) *“Proprietary information” means commercial or financial information which is used either directly or indirectly in the business of any person or company submitting information to the Tennessee venture capital network at Middle Tennessee State University, and which gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information;*

(iv) *“Trade secrets” means manufacturing processes, materials used therein, and costs associated with the manufacturing process of a person or company submitting information to the Tennessee venture capital network at Middle Tennessee State University.*

(11) *Records that are of historical research value which are given or sold to public archival institutions, public libraries, or libraries of a unit of the Tennessee board of regents or the University of Tennessee, when the owner or donor of such records wishes to place restrictions on access to the records shall be treated as confidential and shall not be open for inspection by members of the public. This exemption shall not apply to any records prepared or received in the course of the operation of state or local governments.*

(12) *Personal information contained in motor vehicle records shall be treated as confidential and shall only be open for inspection in accordance with title 55, chapter 25.*

(13)(A) *All memoranda, work notes or products, case files and communications related to mental health intervention techniques conducted by mental health professionals in a group setting to provide job-related critical incident counseling and therapy to law enforcement officers, county and municipal correctional officers, dispatchers, emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and professional, are confidential and privileged and are not subject to disclosure in any judicial or administrative proceeding unless all parties waive such privilege. In order for such privilege to apply, the incident counseling and/or therapy shall be conducted by a qualified mental health professional as defined in § 33-1-101.*

(B) *For the purposes of this section, “group setting” means that more than one (1) person is present with the mental health professional when the incident counseling and/or therapy is being conducted.*

(C) *All memoranda, work notes or products, case files and communications pursuant to this section shall not be construed to be public records pursuant to this chapter.*

(D) *Nothing in this section shall be construed as limiting a licensed professional’s obligation to report suspected child abuse or limiting such professional’s duty to warn about dangerous individuals as provided under §§ 33-3-206 — 33-3-209, or other provisions relevant to the mental health professional’s license.*

(E) *Nothing in this section shall be construed as limiting the ability of a patient or client, or such person’s survivor, to discover under the Rules of Civil Procedure or to admit in evidence under the Rules of Evidence any memoranda, work notes or products, case files and communications which*

are privileged by this section and which are relevant to a health care liability action or any other action by a patient against a mental health professional arising out of the professional relationship. In such an action against a mental health professional, neither shall anything in this section be construed as limiting the ability of the mental health professional to so discover or admit in evidence such memoranda, work notes or products, case files and communications.

(14) All riot, escape and emergency transport plans which are incorporated in a policy and procedures manual of county jails and workhouses or prisons operated by the department of correction or under private contract shall be treated as confidential and shall not be open for inspection by members of the public.

(15)(A) As used in this subdivision (a)(15), unless the context otherwise requires:

(i) "Identifying information" means the home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual;

(ii) "Protection document" means:

(a) An order of protection issued pursuant to title 36, chapter 3, part 6, that has been granted after proper notice and an opportunity to be heard;

(b) A similar order of protection issued by the court of another jurisdiction;

(c) An extension of an ex parte order of protection granted pursuant to § 36-3-605(a);

(d) A similar extension of an ex parte order of protection granted by a court of competent jurisdiction in another jurisdiction;

(e) A restraining order issued by a court of competent jurisdiction prohibiting violence against the person to whom it is issued;

(f) A court order protecting the confidentiality of certain information issued upon the request of a district attorney general to a victim or witness in a criminal case, whether pending or completed; and

(g) An affidavit from the director of a rape crisis center, domestic violence shelter, or human trafficking service provider, as defined in § 36-3-623, certifying that an individual is a victim in need of protection; provided, that such affidavit is on a standardized form to be developed and distributed to such centers, shelters, and providers by the Tennessee task force against domestic violence; and

(iii) "Utility service provider" means any entity, whether public or private, that provides electricity, natural gas, water, or telephone service to customers on a subscription basis, whether or not regulated by the Tennessee public utility commission.

(B) If the procedure set out in this subdivision (a)(15) is followed, identifying information compiled and maintained by a utility service provider concerning a person who has obtained a valid protection document shall be treated as confidential and not open for inspection by the public.

(C) For subdivision (a)(15)(B) to be applicable, a copy of the protection document must be presented during regular business hours by the person to whom it was granted to the records custodian of the utility service provider whose records such person seeks to make confidential, and such person must request that all identifying information about such person be main-

tained as confidential.

(D) The protection document must at the time of presentation be in full force and effect. The records custodian may assume that a protection document is in full force and effect if it is on the proper form and if on its face it has not expired.

(E) Upon being presented with a valid protection document, the records custodian shall accept receipt of it and maintain it in a separate file containing in alphabetical order all protection documents presented to such records custodian pursuant to this subdivision (a)(15). Nothing in this subdivision (a)(15) shall be construed as prohibiting a records custodian from maintaining an electronic file of such protection documents provided the records custodian retains the original document presented.

(F) Identifying information concerning a person that is maintained as confidential pursuant to this subdivision (a)(15) shall remain confidential until the person who requested such confidentiality notifies in person the records custodian of the appropriate utility service provider that there is no longer a need for such information to remain confidential. A records custodian receiving such notification shall remove the protection document concerning such person from the file maintained pursuant to subdivision (a)(15)(E), and the identifying information about such person shall be treated in the same manner as the identifying information concerning any other customer of the utility. Before removing the protection document and releasing any identifying information, the records custodian of the utility service provider shall require that the person requesting release of the identifying information maintained as confidential produce sufficient identification to satisfy such custodian that that person is the same person as the person to whom the document was originally granted.

(G) After July 1, 1999, if information is requested from a utility service provider about a person other than the requestor and such request is for information that is in whole or in part identifying information, the records custodian of the utility service provider shall check the separate file containing all protection documents that have been presented to such utility. If the person about whom information is being requested has presented a valid protection document to the records custodian in accordance with the procedure set out in this subdivision (a)(15), and has requested that identifying information about such person be maintained as confidential, the records custodian shall redact or refuse to disclose to the requestor any identifying information about such person.

(H) Nothing in this subdivision (a)(15) shall prevent the district attorney general and counsel for the defendant from providing to each other in a pending criminal case, where the constitutional rights of the defendant require it, information which otherwise would be held confidential under this subdivision (a)(15).

(16)(A) As used in this subdivision (a)(16), unless the context otherwise requires:

(i) "Governmental entity" means the state of Tennessee and any county, municipality, city or other political subdivision of the state of Tennessee;

(ii) "Identifying information" means the home and work addresses and telephone numbers, social security number, and any other information that could reasonably be used to locate the whereabouts of an individual;

(iii) "Protection document" means:

(a) An order of protection issued pursuant to title 36, chapter 3, part 6, that has been granted after proper notice and an opportunity to be heard;

(b) A similar order of protection issued by the court of another jurisdiction;

(c) An extension of an ex parte order of protection granted pursuant to § 36-3-605(a);

(d) A similar extension of an ex parte order of protection granted by a court of competent jurisdiction in another jurisdiction;

(e) A restraining order issued by a court of competent jurisdiction prohibiting violence against the person to whom it is issued;

(f) A court order protecting the confidentiality of certain information issued upon the request of a district attorney general to a victim or witness in a criminal case, whether pending or completed; and

(g) An affidavit from the director of a rape crisis center or domestic violence shelter certifying that an individual is a victim in need of protection; provided, that such affidavit is on a standardized form to be developed and distributed to such centers and shelters by the Tennessee task force against domestic violence.

(B) If the procedure set out in this subdivision (a)(16) is followed, identifying information compiled and maintained by a governmental entity concerning a person who has obtained a valid protection document may be treated as confidential and may not be open for inspection by the public.

(C) For subdivision (a)(16)(B) to be applicable, a copy of the protection document must be presented during regular business hours by the person to whom it was granted to the records custodian of the governmental entity whose records such person seeks to make confidential, and such person must request that all identifying information about such person be maintained as confidential.

(D) The protection document presented must at the time of presentation be in full force and effect. The records custodian may assume that a protection document is in full force and effect if it is on the proper form and if on its face it has not expired.

(E) Upon being presented with a valid protection document, the record custodian may accept receipt of it. If the records custodian does not accept receipt of such document, the records custodian shall explain to the person presenting the document why receipt cannot be accepted and that the identifying information concerning such person will not be maintained as confidential. If the records custodian does accept receipt of the protection document, such records custodian shall maintain it in a separate file containing in alphabetical order all protection documents presented to such custodian pursuant to this subdivision (a)(16). Nothing in this subdivision (a)(16) shall be construed as prohibiting a records custodian from maintaining an electronic file of such protection documents; provided, that the custodian retains the original document presented.

(F) Identifying information concerning a person that is maintained as confidential pursuant to this subdivision (a)(16) shall remain confidential until the person requesting such confidentiality notifies in person the appropriate records custodian of the governmental entity that there is no longer a need for such information to remain confidential. A records

custodian receiving such notification shall remove the protection document concerning such person from the file maintained pursuant to subdivision (a)(16)(E), and the identifying information about such person shall be treated in the same manner as identifying information maintained by the governmental entity about other persons. Before removing the protection document and releasing any identifying information, the records custodian of the governmental entity shall require that the person requesting release of the identifying information maintained as confidential produce sufficient identification to satisfy such records custodian that that person is the same person as the person to whom the document was originally granted.

(G)(i) After July 1, 1999, if:

(a) Information is requested from a governmental entity about a person other than the person making the request;

(b) Such request is for information that is in whole or in part identifying information; and

(c) The records custodian of the governmental entity to whom the request was made accepts receipt of protection documents and maintains identifying information as confidential;

(ii) then such records custodian shall check the separate file containing all protection documents that have been presented to such entity. If the person about whom information is being requested has presented a valid protection document to the records custodian in accordance with the procedure set out in this subdivision (a)(16), and has requested that identifying information about such person be maintained as confidential, the records custodian shall redact or refuse to disclose to the requestor any identifying information about such person.

(H) Nothing in this subdivision (a)(16) shall prevent the district attorney general and counsel for the defendant from providing to each other in a pending criminal case, where the constitutional rights of the defendant require it, information which otherwise may be held confidential under this subdivision (a)(16).

(I) In an order of protection case, any document required for filing, other than the forms promulgated by the supreme court pursuant to § 36-3-604(b), shall be treated as confidential and kept under seal except that the clerk may transmit any such document to the Tennessee bureau of investigation, 911 service or emergency response agency or other law enforcement agency.

(17) The telephone number, address, and any other information which could be used to locate the whereabouts of a domestic violence shelter, family safety center, rape crisis center, or human trafficking service provider, as defined in § 36-3-623, may be treated as confidential by a governmental entity, and shall be treated as confidential by a utility service provider, as defined in subdivision (a)(15), upon the director of the shelter, family safety center, crisis center, or human trafficking service provider giving written notice to the records custodian of the appropriate entity or utility that such shelter, family safety center, crisis center, or human trafficking service provider desires that such identifying information be maintained as confidential. The records of family safety centers shall be treated as confidential in the same manner as the records of domestic violence shelters pursuant to § 36-3-623.

(18) Computer programs, software, software manuals, and other types of information manufactured or marketed by persons or entities under legal

right and sold, licensed, or donated to Tennessee state boards, agencies, political subdivisions, or higher education institutions shall not be open to public inspection; provided, that computer programs, software, software manuals, and other types of information produced by state or higher education employees at state expense shall be available for inspection as part of an audit or legislative review process.

(19) Credit card account numbers and any related personal identification numbers (PIN) or authorization codes in the possession of the state or a political subdivision thereof shall be maintained as confidential and shall not be open for inspection by members of the public.

(20)(A) For the purposes of this subdivision (a)(20), the following terms shall have the following meaning:

(i) "Consumer" means any person, partnership, limited partnership, corporation, professional corporation, limited liability company, trust, or any other entity, or any user of a utility service;

(ii) "Municipal" and "municipality" means a county, metropolitan government, incorporated city, town of the state, or utility district as created in title 7, chapter 82;

(iii) "Private records" means a credit card number, social security number, tax identification number, financial institution account number, burglar alarm codes, security codes, access codes, and consumer-specific energy and water usage data except for aggregate monthly billing information; and

(iv) "Utility" includes any public electric generation system, electric distribution system, water storage or processing system, water distribution system, gas storage system or facilities related thereto, gas distribution system, wastewater system, telecommunications system, or any services similar to any of the foregoing.

(B) The private records of any utility shall be treated as confidential and shall not be open for inspection by members of the public.

(C) Information made confidential by this subsection (a) shall be redacted wherever possible and nothing in this subsection (a) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains confidential information. For purposes of this section only, it shall be presumed that redaction of such information is possible. The entity requesting the records shall pay all reasonable costs associated with redaction of materials.

(D) Nothing in this subsection (a) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(E) Nothing in this subsection (a) shall be construed to limit access to information made confidential under this subsection (a), when the consumer expressly authorizes the release of such information.

(21)(A) The following records shall be treated as confidential and shall not be open for public inspection:

(i) Records that would allow a person to identify areas of structural or operational vulnerability of a utility service provider or that would permit unlawful disruption to, or interference with, the services provided by a utility service provider;

(ii) All contingency plans of a governmental entity prepared to respond to or prevent any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident.

(B) Documents concerning the cost of governmental utility property, the cost of protecting governmental utility property, the cost of identifying areas of structural or operational vulnerability of a governmental utility, the cost of developing contingency plans for a governmental entity, and the identity of vendors providing goods or services to a governmental entity in connection with the foregoing shall not be confidential. However, any documents relating to these subjects shall not be made available to the public unless information that is confidential under this subsection (a) or any other provision of this chapter has been redacted or deleted from the documents.

(C) As used in this subdivision (a)(21):

(i) "Governmental entity" means the state of Tennessee or any county, municipality, city or other political subdivision of the state of Tennessee;

(ii) "Governmental utility" means a utility service provider that is also a governmental entity; and

(iii) "Utility service provider" means any entity, whether public or private, that provides electric, gas, water, sewer or telephone service, or any combination of the foregoing, to citizens of the state of Tennessee, whether or not regulated by the Tennessee public utility commission.

(D) Nothing in this subdivision (a)(21) shall be construed to limit access to these records by other governmental agencies performing official functions or to preclude any governmental agency from allowing public access to these records in the course of performing official functions.

(22) The following records shall be treated as confidential and shall not be open for public inspection:

(A) The audit working papers of the comptroller of the treasury and state, county and local government internal audit staffs conducting audits as authorized by § 4-3-304. For purposes of this subdivision (a)(22) "audit working papers" includes, but is not limited to, auditee records, intra-agency and interagency communications, draft reports, schedules, notes, memoranda and all other records relating to an audit or investigation;

(B) All information and records received or generated by the comptroller of the treasury containing allegations of unlawful conduct or fraud, waste or abuse;

(C) All examinations administered by the comptroller of the treasury as part of the assessment certification and education program, including, but not limited to, the total bank of questions from which the tests are developed, the answers, and the answer sheets of individual test takers; and

(D) Survey records, responses, data, identifying information as defined in subdivision (a)(15), intra-agency and interagency communications, and other records received to serve as input for any survey created, obtained, or compiled by the comptroller of the treasury; provided, however, this subdivision (a)(22)(D) shall not apply to any survey conducted by the office of open records counsel, created by § 8-4-601.

(23) All records containing the results of individual teacher evaluations administered pursuant to the policies, guidelines, and criteria adopted by the

state board of education under § 49-1-302 shall be treated as confidential and shall not be open to the public. Nothing in this subdivision (a)(23) shall be construed to prevent the LEA, public charter school, state board of education, or department of education from accessing and utilizing such records as required to fulfill their lawful functions. Lawful functions shall include the releasing of such records to parties conducting research in accordance with § 49-1-606(b).

(24) All proprietary information provided to the alcoholic beverage commission shall be treated as confidential and shall not be open for inspection by members of the public. As used in this subdivision (a)(24), "proprietary information" means commercial or financial information which is used either directly or indirectly in the business of any person or company submitting information to the alcoholic beverage commission and which gives such person an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information.

(25) A voluntary association that establishes and enforces bylaws or rules for interscholastic sports competition for secondary schools in this state shall have access to records or information from public, charter, non-public, other schools, school officials and parents or guardians of school children as is required to fulfill its duties and functions. Records or information relating to academic performance, financial status of a student or the student's parent or guardian, medical or psychological treatment or testing, and personal family information in the possession of such association shall be confidential.

(26)(A) Job performance evaluations of the following employees shall be treated as confidential and shall not be open for public inspection:

- (i) Employees of the department of treasury;*
- (ii) Employees of the comptroller of the treasury;*
- (iii) Employees of the secretary of state's office; and*
- (iv) Employees of public institutions of higher education.*

(B) For purposes of this subdivision (a)(26), "job performance evaluations" includes, but is not limited to, job performance evaluations completed by supervisors, communications concerning job performance evaluations, self-evaluations of job performance prepared by employees, job performance evaluation scores, drafts, notes, memoranda, and all other records relating to job performance evaluations.

(C) Nothing in this subdivision (a)(26) shall be construed to limit access to those records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(27) E-mail addresses collected by the department of state's division of business services, except those that may be contained on filings submitted pursuant to title 47, chapter 9, or § 55-3-126(f), shall be treated as confidential and shall not be open to inspection by members of the public.

(28) Proposals and statements of qualifications received by a local government entity in response to a personal service, professional service, or consultant service request for proposals or request for qualifications solicitation, and related records, including, but not limited to, evaluations, names of evaluation committee members, and all related memoranda or notes, shall not be open for public inspection until the intent to award the contract to a particular respondent is announced.

(29)(A) No governmental entity shall publicly disclose personally identifying information of any citizen of the state unless:

- (i) *Permission is given by the citizen;*
- (ii) *Distribution is authorized under state or federal law; or*
- (iii) *Distribution is made:*

(a) To a consumer reporting agency as defined by the federal Fair Credit Reporting Act (15 U.S.C. §§ 1681 et seq.);

(b) To a financial institution subject to the privacy provisions of the federal Gramm Leach Bliley Act (15 U.S.C. § 6802); or

(c) To a financial institution subject to the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (31 U.S.C. §§ 5311 et seq.).

(B)(i) This subdivision (a)(29) does not prohibit the use of personally identifying information by a governmental entity in the performance of its functions or the disclosure of personally identifying information to another governmental entity, or an agency of the federal government, or a private person or entity that has been authorized to perform certain duties as a contractor of the governmental entity.

(ii) Any person or entity receiving personally identifying information from a governmental entity shall be subject to the same confidentiality provisions as the disclosing entity; provided, however, that the confidentiality provisions applicable to a consumer reporting agency or financial institution as defined in subdivision (a)(29)(A)(iii) shall be governed by federal law.

(C) For purposes of this subdivision (a)(29), “personally identifying information” means:

- (i) Social security numbers;*
- (ii) Official state or government issued driver licenses or identification numbers;*
- (iii) Alien registration numbers or passport numbers;*
- (iv) Employer or taxpayer identification numbers;*
- (v) Unique biometric data, such as fingerprints, voice prints, retina or iris images, or other unique physical representations; or*
- (vi) Unique electronic identification numbers, routing codes or other personal identifying data which enables an individual to obtain merchandise or service or to otherwise financially encumber the legitimate possessor of the identifying data.*

(30)(A) Proprietary information, trade secrets, and marketing information submitted to any food-based business incubation service provider created by a municipality shall be treated as confidential and shall not be open for inspection by members of the public.

(B) As used in this subdivision (a)(30):

- (i) “Proprietary information”:*

(a) Means commercial or financial information that is used either directly or indirectly in the business of any person or company submitting information to a food-based business incubation service provider, and that gives such person or company an advantage or an opportunity to obtain an advantage over competitors who do not know or use such information; and

(b) Does not include lease agreements with the incubation service provider, the identity of businesses or persons using the incubation service provider’s services, amounts paid to the incubation service provider by businesses or persons for use of facilities or for other

services, or financial records of the incubation service provider;

(ii) "Marketing information" means marketing studies, marketing analyses, and similar research and information designed to identify potential customers and business relationships; and

(iii) "Trade secret" means a manufacturing process, materials used therein, and costs associated with the manufacturing process of any person or company submitting information to a food-based business incubation service provider.

(31) [Effective until June 30, 2026.]

(A) Except as provided in subdivisions (a)(31)(B)-(D), personally identifying information of any person named in any motor vehicle accident report is confidential and not open for public inspection.

(B) Notwithstanding subdivision (a)(31)(A) and upon written request, any person named in any motor vehicle accident report, or such person's agent, legal representative, or attorney, certifying that the person has permission from the person, persons, or entities authorized to obtain motor vehicle records information pursuant to § 55-25-107(b)(1), (b)(6) or (b)(9), is authorized to receive an accident report containing personally identifying information of persons involved in the accident.

(C) Notwithstanding subdivision (a)(31)(A), any federal, state, or local governmental agency, or any private person or entity acting on behalf of a federal, state, or local governmental agency, may use personally identifying information in carrying out the agency's functions.

(D) Nothing in this subdivision (a)(31) prevents a law enforcement entity from releasing information about traffic accidents to the public, including the name, age, and county or city of residence of a person involved in an accident, when the law enforcement entity determines such release is in the best interest of the agency and for the public good.

(E) For purposes of this subdivision (a)(31), "personally identifying information" means:

- (i) Street addresses and zip codes;*
- (ii) Telephone numbers;*
- (iii) Driver license numbers; and*
- (iv) Insurance information.*

(F) This subdivision (a)(31) is repealed June 30, 2026.

(b) Any record designated "confidential" shall be so treated by agencies in the maintenance, storage and disposition of such confidential records. These records shall be destroyed in such a manner that they cannot be read, interpreted or reconstructed. The destruction shall be in accordance with an approved records disposition authorization from the public records commission.

(c) Notwithstanding any law to the contrary, any confidential public record in existence more than seventy (70) years shall be open for public inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law or unless the record is a record of services for a person for mental illness or intellectual and developmental disabilities. This section does not apply to a record concerning an adoption or a record maintained by the office of vital records or by the Tennessee bureau of investigation. For the purpose of providing an orderly schedule of availability for access to such confidential public records for public inspection, all records created and designated as confidential prior to January 1, 1901, shall be open for public inspection on

January 1, 1985. All other public records created and designated as confidential after January 1, 1901 and which are seventy (70) years of age on January 1, 1985, shall be open for public inspection on January 1, 1986; thereafter all such records shall be open for public inspection pursuant to this part after seventy (70) years from the creation date of such records.

(d) Records of any employee's identity, diagnosis, treatment, or referral for treatment that are maintained by any state or local government employee assistance program shall be confidential; provided, that any such records are maintained separately from personnel and other records regarding such employee that are open for inspection. For purposes of this subsection (d), "employee assistance program" means any program that provides counseling, problem identification, intervention, assessment, or referral for appropriate diagnosis and treatment, and follow-up services to assist employees of such state or local governmental entity who are impaired by personal concerns including, but not limited to, health, marital, family, financial, alcohol, drug, legal, emotional, stress or other personal concerns which may adversely affect employee job performance.

(e) Unpublished telephone numbers in the possession of emergency communications districts created pursuant to title 7, chapter 86, or the emergency communications board created pursuant to § 7-86-302 or its designated agent shall be treated as confidential and shall not be open for inspection by members of the public until such time as any provision of the service contract between the telephone service provider and the consumer providing otherwise is effectuated; provided, that addresses held with such unpublished telephone numbers, or addresses otherwise collected or compiled, and in the possession of emergency communications districts created pursuant to title 7, part 86, or the emergency communications board created pursuant to § 7-86-302 or its designated agent shall be made available upon written request to any county election commission for the purpose of compiling a voter mailing list for a respective county.

(f)(1) The following records or information of any state, county, municipal or other public employee or former employee, or applicant to such position, or of any law enforcement officer commissioned pursuant to § 49-7-118, in the possession of a governmental entity or any person in its capacity as an employer shall be treated as confidential and shall not be open for inspection by members of the public:

(A) Home telephone and personal cell phone numbers;

(B) Bank account and individual health savings account, retirement account and pension account information; provided, that nothing shall limit access to financial records of a governmental employer that show the amounts and sources of contributions to the accounts or the amount of pension or retirement benefits provided to the employee or former employee by the governmental employer;

(C) Social security number;

(D)(i) Residential information, including the street address, city, state and zip code, for any state employee; and

(ii) Residential street address for any county, municipal or other public employee;

(E) Driver license information except where driving or operating a vehicle is part of the employee's job description or job duties or incidental to the performance of the employee's job;

(F) The information listed in subdivisions (f)(1)(A)-(E) of immediate family members, whether or not the immediate family member resides with

the employee, or household members;

(G) Emergency contact information, except for that information open to public inspection in accordance with subdivision (f)(1)(D)(ii); and

(H) Personal, nongovernment issued, email address.

(2) Information made confidential by this subsection (f) shall be redacted wherever possible and nothing in this subsection (f) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains confidential information.

(3) Nothing in this subsection (f) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(4) Nothing in this subsection (f) shall be construed to close any personnel records of public officers which are currently open under state law.

(5) Nothing in this subsection (f) shall be construed to limit access to information made confidential under this subsection (f), when the employee expressly authorizes the release of such information.

(6) Notwithstanding any provision to the contrary, the bank account information for any state, county, municipal, or other public employee, former employee or applicant to such position, or any law enforcement officer commissioned pursuant to § 49-7-118, that is received, compiled or maintained by the department of treasury, shall be confidential and not open for inspection by members of the public, regardless of whether the employee is employed by the department of treasury. The bank account information that shall be kept confidential shall include, but not be limited to bank account numbers, transit routing numbers and the name of the financial institutions.

(7) Notwithstanding any provision to the contrary, the following information that is received, compiled or maintained by the department of treasury relating to the department's investment division employees who are so designated in writing by the state treasurer shall be kept confidential and not open for inspection by members of the public: holdings reports, confirmations, transaction reports and account statements relative to securities, investments or other assets disclosed by the employee to the employer, or authorized by the employee to be released to the employer directly or otherwise.

(8)(A) Any person required by law to treat information described in subdivision (f)(1)(D) as confidential commits an offense if such information pertains to a law enforcement officer or a county corrections officer and:

(i) The person acts with criminal negligence, as defined in § 39-11-106, in releasing the information to the public; or

(ii) The person knows the information is to be treated as confidential and intentionally releases the information to the public.

(B)(i) A violation of subdivision (f)(8)(A)(i) is a Class B misdemeanor punishable only by a fine of five hundred dollars (\$500).

(ii) A violation of subdivision (f)(8)(A)(ii) is a Class A misdemeanor.

(C) Subdivision (f)(8)(A) shall not apply if:

(i) The law enforcement officer or county corrections officer whose information is treated as confidential under subdivision (f)(1)(D) expressly authorizes the release of such information; or

(ii) The information is released pursuant to court order.

(g)(1)(A)(i) All law enforcement personnel information in the possession of any entity or agency in its capacity as an employer, including officers commissioned pursuant to § 49-7-118, shall be open for inspection as

provided in § 10-7-503(a), except personal information shall be redacted where there is a reason not to disclose as determined by the chief law enforcement officer or the chief law enforcement officer's designee.

(ii) When a request to inspect includes personal information and the request is for a professional, business, or official purpose, the chief law enforcement officer or custodian shall consider the specific circumstances to determine whether there is a reason not to disclose and shall release all information, except information made confidential in subsection (f), if there is not such a reason. In all other circumstances, the officer shall be notified prior to disclosure of the personal information and shall be given a reasonable opportunity to be heard and oppose the release of the information. Nothing in this subdivision (g)(1) shall be construed to limit the requestor's right to judicial review set out in § 10-7-505.

(iii) The chief law enforcement officer shall reserve the right to segregate information that could be used to identify or to locate an officer designated as working undercover.

(B) In addition to the requirements of § 10-7-503(c), the request for a professional, business, or official purpose shall include the person's business address, business telephone number and email address. The request may be made on official or business letterhead and the person making the request shall provide the name and contact number or email address for a supervisor for verification purposes.

(C) If the chief law enforcement official, the chief law enforcement official's designee, or the custodian of the information decides to withhold personal information, a specific reason shall be given to the requestor in writing within two (2) business days, and the file shall be released with the personal information redacted.

(D) For purposes of this subsection (g), personal information shall include the officer's residential address, home and personal cellular telephone number; place of employment; name, work address and telephone numbers of the officer's immediate family; name, location, and telephone number of any educational institution or daycare provider where the officer's spouse or child is enrolled.

(2) Nothing in this subsection (g) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains some information made confidential by subdivision (g)(1).

(3) Nothing in this subsection (g) shall be construed to limit access to these records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(4) Except as provided in subdivision (g)(1), nothing in this subsection (g) shall be construed to close personnel records of public officers, which are currently open under state law.

(5) Nothing in this subsection (g) shall be construed to limit access to information made confidential by subdivision (g)(1), when the employee expressly authorizes the release of such information.

(h)(1) Notwithstanding any other law to the contrary, those parts of the record identifying an individual or entity as a person or entity who or that has been or may in the future be directly involved in the process of executing a sentence of death shall be treated as confidential and shall not be open to public inspection. For the purposes of this section "person or entity" includes, but is not limited to, an employee of the state who has training related to

direct involvement in the process of executing a sentence of death, a contractor or employee of a contractor, a volunteer who has direct involvement in the process of executing a sentence of death, or a person or entity involved in the procurement or provision of chemicals, equipment, supplies and other items for use in carrying out a sentence of death. Records made confidential by this section include, but are not limited to, records related to remuneration to a person or entity in connection with such person's or entity's participation in or preparation for the execution of a sentence of death. Such payments shall be made in accordance with a memorandum of understanding between the commissioner of correction and the commissioner of finance and administration in a manner that will protect the public identity of the recipients; provided, that, if a contractor is employed to participate in or prepare for the execution of a sentence of death, the amount of the special payment made to such contractor pursuant to the contract shall be reported by the commissioner of correction to the comptroller of the treasury and such amount shall be a public record.

(2) Information made confidential by this subsection (h) shall be redacted wherever possible and nothing in this subsection (h) shall be used to limit or deny access to otherwise public information because a file, a document, or data file contains confidential information.

(i)(1) Information that would allow a person to obtain unauthorized access to confidential information or to government property shall be maintained as confidential. For the purpose of this section, "government property" includes electronic information processing systems, telecommunication systems, or other communications systems of a governmental entity subject to this chapter. For the purpose of this section, "governmental entity" means the state of Tennessee and any county, municipality, city or other political subdivision of the state of Tennessee. Such records include:

(A) Plans, security codes, passwords, combinations, or computer programs used to protect electronic information and government property;

(B) Information that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and

(C) Information that could be used to disrupt, interfere with, or gain unauthorized access to electronic information or government property.

(2) Information made confidential by this subsection (i) shall be redacted wherever possible and nothing in this subsection (i) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains confidential information.

(3)(A) Documents concerning the cost of protecting government property or electronic information shall not be confidential.

(B) The identity of a vendor that provides to the state goods and services used to protect electronic information processing systems, telecommunication and other communication systems, data storage systems, government employee information, or citizen information shall be confidential.

(C) The identity of a vendor that provides to a governmental entity other than the state goods and services used to protect electronic information processing systems, telecommunication and other communication systems, data storage systems, government employee information, or citizen information shall not be confidential; provided, that the identity of the vendor shall be confidential if the governing body of the governmental entity votes

affirmatively to make such information confidential.

(D) Notwithstanding subdivisions (i)(3)(B) and (C), a governmental entity shall, upon request, provide the identity of a vendor to the comptroller of the treasury, the fiscal review committee of the general assembly, and any member of the general assembly. If the identity of the vendor is confidential under subdivision (i)(3)(B) or (i)(3)(C), the comptroller, fiscal review committee, or member shall exercise reasonable care in maintaining the confidentiality of the identity of the vendor obtained under this subdivision (i)(3)(D).

(j)(1) Notwithstanding any other law to the contrary, identifying information compiled and maintained by the department of correction and the board of parole concerning any person shall be confidential when the person has been notified or requested that notification be provided to the person regarding the status of criminal proceedings or of a convicted felon incarcerated in a department of correction institution, county jail or workhouse or under state supervised probation or parole pursuant to § 40-28-505, § 40-38-103, § 40-38-110, § 40-38-111, § 41-21-240 or § 41-21-242.

(2) For purposes of subdivision (j)(1), "identifying information" means the name, home and work addresses, telephone numbers and social security number of the person being notified or requesting that notification be provided.

(k) The following information regarding victims who apply for compensation under the Criminal Injuries Compensation Act, compiled in title 29, chapter 13, shall be treated as confidential and shall not be open for inspection by members of the public:

(1) Residential information, including the street address, city, state and zip code;

(2) Home telephone and personal cell phone numbers;

(3) Social security number; and

(4) The criminal offense from which the victim is receiving compensation.

(l)(1) All applications, certificates, records, reports, legal documents and petitions made or information received pursuant to title 37 that directly or indirectly identifies a child or family receiving services from the department of children's services or that identifies the person who made a report of harm pursuant to § 37-1-403 or § 37-1-605 shall be confidential and shall not be open for public inspection, except as provided by §§ 37-1-131, 37-1-409, 37-1-612, 37-5-107 and 49-6-3051.

(2) The information made confidential pursuant to subdivision (l)(1) includes information contained in applications, certifications, records, reports, legal documents and petitions in the possession of not only the department of children's services but any state or local agency, including, but not limited to, law enforcement and the department of education.

(m)(1) Information and records that are directly related to the security of any government building shall be maintained as confidential and shall not be open to public inspection. For purposes of this subsection (m), "government building" means any building that is owned, leased or controlled, in whole or in part, by the state of Tennessee or any county, municipality, city or other political subdivision of the state of Tennessee. Such information and records include, but are not limited to:

(A) Information and records about alarm and security systems used at the government building, including codes, passwords, wiring diagrams,

plans and security procedures and protocols related to the security systems;

(B) Security plans, including security-related contingency planning and emergency response plans;

(C) Assessments of security vulnerability;

(D) Information and records that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and

(E) Surveillance recordings, whether recorded to audio or visual format, or both, except segments of the recordings may be made public when they include an act or incident involving public safety or security or possible criminal activity. In addition, if the recordings are relevant to a civil action or criminal prosecution, then the recordings may be released in compliance with a subpoena or an order of a court of record in accordance with the Tennessee rules of civil or criminal procedure. The court or administrative judge having jurisdiction over the proceedings shall issue appropriate protective orders, when necessary, to ensure that the information is disclosed only to appropriate persons. Release of any segment or segments of the recordings shall not be construed as waiving the confidentiality of the remaining segments of the audio or visual tape.

(2) Information made confidential by this subsection (m) shall be redacted wherever possible and nothing in this subsection (m) shall be used to limit or deny access to otherwise public information because a file or document contains confidential information.

(n)(1) Notwithstanding any law to the contrary, the following documents submitted to the state in response to a request for proposal or other procurement method shall remain confidential after completion of the evaluation period:

(A) Discount, rebate, pricing or other financial arrangements at the individual drug level between pharmaceutical manufacturers, pharmaceutical wholesalers/distributors, and pharmacy benefits managers, as defined in § 56-7-3102, that a proposer:

(i) Submits to the state in response to a request for proposals or other procurement methods for pharmacy-related benefits or services;

(ii) Includes in its cost or price proposal, or provides to the state after the notice of intended award of the contract is issued, where the proposer is the apparent contract awardee; and

(iii) Explicitly marks as confidential and proprietary; and

(B) Discount, rebate, pricing or other financial arrangements at the individual provider level between health care providers and health insurance entities, as defined in § 56-7-109, insurers, insurance arrangements and third party administrators that a proposer:

(i) Submits to the state in response to a request for proposals or other procurement method after the notice of intended award of the contract is issued, where the proposer is the apparent contract awardee, in response to a request by the state for additional information; and

(ii) Explicitly marks as confidential and proprietary.

(2)(A) Information made confidential by subdivision (n)(1) shall be redacted wherever possible; and nothing contained in this subsection (n) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains confidential information. The confidentiality established by subdivision (n)(1)(B) is applicable only to

information submitted to the state after completion of the evaluation period; and provision of the notice of intended award of the contract and such information shall only be used to validate the accuracy of the apparent contract awardee's proposal and shall not be used to alter the scope of the information required by the state's procurement document requesting proposals. Any report produced by the state, or on the state's behalf, utilizing the information made confidential by subdivision (n)(1)(B) shall not be considered confidential hereunder so long as such report is disclosed in an aggregate or summary format without disclosing discount, rebate, pricing or other financial arrangements at the individual provider level.

(B) The comptroller of the treasury, for the purpose of conducting audits or program evaluations, shall have access to the discount, rebate, pricing and descriptions of other financial arrangements cited in this subsection (n) as submitted in a procurement or as a report to the contractor; provided, however, that no official, employee or agent of the state of Tennessee may release or provide for the release, in any form, of information subject to confidential custody under this subsection (n).

(o)(1) Except as provided in subdivisions (o)(2)-(4), the following information and records are confidential, not open or available for public inspection and shall not be released in any manner:

(A) All information contained in any application for a handgun carry permit issued pursuant to § 39-17-1351, § 39-17-1365, or § 39-17-1366, a permit renewal application, or contained in any materials required to be submitted in order to obtain such a permit;

(B) All information provided to any state or federal agency, to any county, municipality, or other political subdivision, to any official, agent, or employee of any state or federal agency, or obtained by any state or federal agency in the course of its investigation of an applicant for a handgun carry permit; and

(C) Any and all records maintained relative to an application for a handgun carry permit issued pursuant to § 39-17-1351, § 39-17-1365, or § 39-17-1366, a permit renewal application, the issuance, renewal, expiration, suspension, or revocation of a handgun carry permit, or the result of any criminal history record check conducted under this part.

(2) Any information or other records regarding an applicant or permit holder may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution, or for determining the validity of a handgun carry permit, or to a child support enforcement agency for purposes of child support enforcement, but shall not be publicly disclosed except as evidence in a criminal or child support enforcement proceeding.

(3) Any person or entity may request the department of safety to search its handgun permit holder database to determine if a named person has a Tennessee handgun carry permit, as of the date of the request, if the person or entity presents with the request a judgment of conviction, criminal history report, order of protection, or other official government document or record that indicates the named person is not eligible to possess a handgun carry permit under the requirements of § 39-17-1351, § 39-17-1365, or § 39-17-1366.

(4) Nothing in this subsection (o) shall prohibit release of the handgun carry permit statistical reports authorized by § 39-17-1351(s).

(p) Information, records, and plans that are related to school security, the

district-wide school safety plans or the building-level school safety plans shall not be open to public inspection. Nothing in this part shall be interpreted to prevent school administrators of an LEA from discussing or distributing information to parents or legal guardians of children attending the school regarding procedures for contacting or obtaining a child following a natural disaster.

(q)(1) Where a defendant has plead guilty to, or has been convicted of, and has been sentenced for a sexual offense or violent sexual offense specified in § 40-39-202, the following information regarding the victim of the offense shall be treated as confidential and shall not be open for inspection by members of the public:

(A) Name, unless waived pursuant to subdivision (q)(2);

(B) Home, work and electronic mail addresses;

(C) Telephone numbers;

(D) Social security number; and

(E) Any photographic or video depiction of the victim.

(2)(A) At any time after the defendant or defendants in a case have been sentenced for an offense specified in subdivision (q)(1), the victim of such offense whose name is made confidential pursuant to subdivision (q)(1)(A) may waive such provision and allow the victim's name to be obtained in the same manner as other public records.

(B) The district attorney general prosecuting the case shall notify the victim that the victim has the right to waive the confidentiality of the information set forth in subdivision (q)(1)(A).

(C) If the victim executes a written waiver provided by the district attorney general's office to waive confidentiality pursuant to subdivision (q)(2)(A), the waiver shall be filed in the defendant's case file in the office of the court of competent jurisdiction.

(3) Nothing in this subsection (q) shall prevent the district attorney general or attorney general and reporter and counsel for a defendant from providing to each other in a pending criminal case or appeal, where the constitutional rights of the defendant require it, information which otherwise may be held confidential under this subsection (q).

(4) Nothing in this subsection (q) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains some information made confidential by subdivision (q)(1); provided, that confidential information shall be redacted before any access is granted to a member of the public.

(5) Nothing in this subsection (q) shall be construed to limit access to records by law enforcement agencies, courts, or other governmental agencies performing official functions.

(r) Notwithstanding any provision to the contrary, any bank account information that is received, compiled, or maintained by a state governmental agency, shall be confidential and shall not be an open record for inspection by members of the public. The bank account information that shall be kept confidential includes, but is not limited to, debit card numbers and any related personal identification numbers (PINs) or authorization codes, bank account numbers, and transit routing numbers.

(s) The records of the insurance verification program created pursuant to the James Lee Atwood Jr. Law, compiled in title 55, chapter 12, part 2, in the possession of the department of revenue or its agent, the department of safety,

the department of commerce and insurance, law enforcement, and the judiciary pursuant to the James Lee Atwood Jr. Law, shall be treated as confidential and shall not be open for inspection by members of the public. Subsection (c) shall not apply to the records described in this subsection (s).

(t)(1) The following information concerning the victim of a criminal offense who is a minor shall be treated as confidential and shall not be open for inspection by members of the public:

- (A) Name, unless waived pursuant to subdivision (t)(2);*
- (B) Home, work, and electronic mail addresses;*
- (C) Telephone numbers;*
- (D) Social security number;*
- (E) Any photographic or video depiction of the minor victim; and*
- (F) Whether the defendant is related to the victim unless the relationship is an essential element of the offense.*

(2) The custodial parent or legal guardian of the minor victim of an offense whose name is made confidential pursuant to subdivision (t)(1)(A) may petition a court of record to waive confidentiality and allow the minor victim's name to be obtained in the same manner as other public records. Upon finding good cause shown, the court shall enter the order granting the waiver.

(3) This subsection (t) shall not be construed to:

(A) Restrict the application of Rule 16 of the Tennessee Rules of Criminal Procedure in any court or the disclosure of information required of counsel by the state or federal constitution;

(B) Limit or deny access to otherwise public information because a file, document, or data file contains some information made confidential by subdivision (t)(1); provided, that confidential information shall be redacted before any access is granted to a member of the public;

(C) Limit access to records by law enforcement agencies, courts, or other governmental agencies performing official functions; or

(D) Limit or prevent law enforcement from releasing information included in this subsection (t) for the purposes of locating and identifying missing, exploited, or abducted minors.

(u) [Effective until July 1, 2022. See the Compiler's Notes.]

(1) Video taken by a law enforcement body camera that depicts the following shall be treated as confidential and not subject to public inspection:

(A) Minors, when taken within a school that serves any grades from kindergarten through grade twelve (K-12);

(B) The interior of a facility licensed under title 33 or title 68; or

(C) The interior of a private residence that is not being investigated as a crime scene.

(2) Nothing in this subsection (u) shall prevent the district attorney general or attorney general and reporter and counsel for a defendant charged with a criminal offense from providing to each other in a pending criminal case or appeal, where the constitutional rights of the defendant require it, information which otherwise may be held confidential under this subsection (u).

(3) Nothing in this subsection (u) shall be used to limit or deny access to otherwise public information because a file, document, or data file contains some information made confidential by subdivision (u)(1); provided, that confidential information shall be redacted before any access is granted to a member of the public.

(4) Nothing in this subsection (u) shall be construed to limit access to records by law enforcement agencies, courts, or other governmental agencies

performing official functions.

(5) This subsection (u) is deleted on July 1, 2022, and shall no longer be effective on and after such date.

(v) Notwithstanding any law to the contrary, examination questions, answer sheets, scoring keys, and other examination data used for the purpose of licensure, certification, or registration of health professionals under title 63 or title 68 shall be treated as confidential and shall not be open for inspection by members of the public; provided, however, that:

(1) A person who has taken such an examination has the right to review the person's own completed examination; and

(2) Final examination scores of persons licensed, certified, or registered as health professionals under title 63 or title 68 shall be open for inspection by members of the public, upon request.

(w)(1) Notwithstanding any law to the contrary, information that is reasonably likely to identify a student accused of committing an alleged sexual offense or alleged violent sexual offense as defined in § 40-39-202 or any information that is reasonably likely to identify the victim of an alleged sexual offense or alleged violent sexual offense as defined in § 40-39-202, must be treated as confidential and not be open for inspection by members of the public.

(2) Nothing in this subsection (w):

(A) Limits or denies access to otherwise public information because a file, document, or data file contains information that is reasonably likely to identify a student accused of committing a sexual offense or violent sexual offense or the victim of a sexual offense or violent sexual offense; however, all information that is reasonably likely to identify a student accused of committing a sexual offense or violent sexual offense, or the victim of a sexual offense or violent sexual offense must be redacted before any access is granted to a member of the public for inspection;

(B) Prevents the district attorney general, the attorney general and reporter, or counsel for a defendant from providing to each other in a pending criminal case or appeal, where the constitutional rights of the defendant require it, information that otherwise may be held confidential under this subsection (w); or

(C) Limits access to records by law enforcement agencies, courts, or other governmental agencies or instrumentalities performing official functions.

(x) [Effective until July 1, 2026.]

(1) The following information regarding donors to the state museum is confidential and not open for inspection by members of the public, upon the donor's advance request; provided, however, that the museum may disclose such information as authorized or required by law:

(A) Residential information, including the street address, city, state, and zip code;

(B) Home telephone and personal cell phone numbers;

(C) Social security number;

(D) Electronic mail address; and

(E) Taxpayer identification number.

(2) This subsection (x) is repealed effective July 1, 2026.

10-7-517. Referral of certain legislation creating exception to open records requirement to government operations committee.

(a) Any legislation of the house of representatives that creates an exception to the open records requirement of § 10-7-503 deeming records of public entities to be open for inspection by the public must be referred to the government operations committee according to the rules of the house of representatives.

(b) After review under subsection (a), the government operations committee of the house of representatives shall give the legislation a positive, neutral, or negative recommendation.

(c) The government operations committee of the house of representatives, unless it is designated as the appropriate standing committee, shall not delay or prevent consideration of the legislation by the house of representatives by withholding the committee's recommendation.

11-3-121. Rate discounts.

(a) The commissioner shall offer discounted rates for activities at the state parks to senior citizens, disabled persons, state employees, members of the Tennessee national guard, and any other group that the commissioner deems appropriate for such treatment. The specific activities where these discounts would apply as well as the timing and amount will be left to the commissioner's discretion.

(b)(1)(A) The commissioner shall offer discounted rates for activities at state parks to veterans who are Tennessee residents.

(B) The commissioner shall offer a year-round discount in the amount of no less than fifty percent (50%) for camping fees at state parks to veterans who have any service-connected disability that is determined by the veterans administration to constitute a one hundred percent (100%) permanent total disability. Certification from the veterans' administration indicating the veteran's percentage of service-connected disability must be presented in order to receive the discounted fee.

(C) Except for the discount required by subdivision (b)(1)(B), the commissioner may determine the specific activities for which other discounts would apply, as well as the timing and amount of each discount; provided, that the other discounts must only be offered to resident veterans during the off season.

(2) For purposes of this subsection (b), "veteran" means a former member of the United States armed forces or a former member of a reserve or Tennessee national guard unit who was called into active military service of the United States, as defined in § 58-1-102, and who served honorably, as defined in § 49-7-102.

(3) For purposes of this subsection (b), "off season" means a period or periods of time, as determined by the commissioner, during which state park activities and facilities traditionally operate at less than full capacity.

(c) No public official shall be given the right to play golf free for life or for any other extended period of time on courses in state parks, unless such action is authorized by the agriculture and natural resources subcommittee of the house of representatives, and approved by such standing committee of the house of representatives, as well as approved by the energy, agriculture and natural

resources committee of the senate. Such prohibition includes green fees, golf carts and free supplies or equipment. Nothing in this subsection (c) shall prohibit the management of a golf course in state parks from occasionally extending free play to such public officials under appropriate circumstances.

16-1-117. Reporting case statistics — Automated court information system.

(a) It is the duty of the administrative office of the courts to collect, develop, and maintain uniform statistical information relative to court caseloads in Tennessee. To assist the administrative office of the courts in this duty, the clerks of each court shall report case data as set forth below:

(1) Each criminal case shall be assigned a unique docket number. A criminal case shall be defined and reported as a single charge or set of charges arising out of a single incident concerning a single defendant in one (1) court proceeding. An incident shall be all criminal activity occurring on the same date. A court proceeding refers to a single level of court, such as general sessions or circuit. An appeal, probation revocation, or other post-judgment proceeding shall be considered a separate case. This definition shall not alter the practice in the Tennessee rules of criminal procedure dealing with joinder and severance of criminal cases. In addition, in courts of record, multiple incidents shall be counted as a single case when the charges are of a related nature and it is the district attorney general's intention that all of the charges be handled in the same court proceeding pursuant to a single indictment. If a case has more than one (1) charge or count, then the administrative office of the courts shall count the case according to the highest class of charge or count for the weighted caseload study based on the formula set out in § 16-2-513(a). Nothing in this subdivision (a)(1) shall operate to deprive court clerks of any fees to which they were entitled prior to July 1, 2014;

(2) A civil case shall be defined as all motions, petitions, claims, counterclaims or proceedings between the parties resulting from the initial filing until the case is disposed. A unique docket number will be assigned to a civil case upon filing. Until the case is disposed, all subsequent motions, petitions, claims, counterclaims or proceedings between the parties resulting from the initial filing will be handled under the assigned docket number and will not be assigned a new docket number. Once a civil case has been disposed and further actions occur on the case, the original case will be reopened using the same docket number under which it was originally filed and is subject to additional court costs. All subsequent motions, petitions, claims, counterclaims or proceedings relating to the reopened case will be handled under the one reopened case docket number until disposed. Any subsequent reopenings will still use the original docket number, but will be counted by the administrative office of the courts as a new case for case-reporting purposes and are subject to additional court costs. Civil cases in courts of record shall be counted and reported to the administrative office of the courts according to this subdivision (a)(2);

(3) All general sessions courts and municipal courts with general sessions jurisdiction shall collect and provide court data to the administrative office of the courts based on the definitions for criminal and civil cases as provided in subdivisions (a)(1) and (2);

(4) All courts of record, except for juvenile courts, and all general sessions courts and municipal courts with general sessions jurisdiction shall report caseload data to the administrative office of the courts not less than one (1) time each month, so that all cases filed and disposed in one (1) month have been received by the administrative office of the courts by the fifteenth day of the following month in which the case is filed or disposed. The administrative office of the courts shall create forms to be used by each court in reporting the caseload data;

(5) The administrative office of the courts will provide written notification to any responsible party found not to be in compliance with the reporting requirements. Written notification will detail the type of noncompliance and recommend the corrective action to be taken. If compliance is not achieved during the subsequent reporting period following notification, the administrative office of the courts will no longer accept data from the office not in compliance until such time as the errors are corrected. Notification of this action will be sent to all judges, district attorneys general, district public defenders and court clerks within the district where the noncomplying office is located. Notification will also be sent to the district attorneys general conference, the district public defender conference, the administrative office of the courts and the county officials association of Tennessee. Any periods of noncompliance will also be reported in the annual report to the chairs of the judiciary committee of the house of representatives and the judiciary committee of the senate;

(6)(A) The clerks of those courts wherein commitments to a mental institution, as defined in § 16-10-213, are ordered or persons are adjudicated as a mental defective, as defined in § 16-10-213, shall report information described in § 16-10-213(c) regarding individuals who have been adjudicated as a mental defective or judicially committed to a mental institution. Included in the report pursuant to this subdivision (a)(6)(A) shall be the date in which such information was also reported to the federal bureau of investigation-NICS index;

(B) The clerks of courts, pursuant to the reporting requirements of §§ 16-10-213, 16-11-206, 16-15-303 and 16-16-120, shall provide sufficient information to the administrative office of the courts who shall make such reports on behalf of those clerks as soon as practicable, but no later than the third business day following the date of receipt of signed order;

(C) The information reported pursuant to subdivision (a)(6)(A) shall be maintained as confidential and not subject to public inspection, except for such use as may be necessary in the conduct of any proceedings pursuant to §§ 39-17-1316, 39-17-1353 and 39-17-1354;

(D) The administrative office of the courts shall provide written notification to any responsible party found not to be in compliance with the reporting requirements of this subdivision (a)(6) or with the reporting requirements of §§ 16-10-213, 16-11-206, 16-15-303 and 16-16-120. If compliance is not achieved during the subsequent reporting period following notification, the administrative office of the courts will no longer accept data from the office not in compliance. Notification of this action will be sent to all judges, district attorneys general, district public defenders and court clerks within the district where the noncomplying office is located. Notification will also be sent to the district attorneys general conference, the district public defenders conference, the administrative office of the

courts and the county officials association of Tennessee. Any periods of noncompliance will also be reported in the annual report to the chair of the judiciary committee of the senate and the chair of the judiciary committee of the house of representatives.

(b) Any automated court information system being used or developed on or after July 1, 2003, including, but not limited to, the Tennessee court information system (TnCIS) being designed pursuant to § 16-3-803(h), shall ensure comparable data will be reported to the administrative office of the courts with respect to courts of record, and criminal cases in general sessions courts and municipal courts with general sessions jurisdiction, using the definitions and standards set forth in subsection (a). Each system shall use the Tennessee code citation on each criminal charge, and have the capability of using this information to classify the type and class of each charge.

16-1-119. Advisory task force to review composition of judicial districts.

(a)(1)(A) By no later than September 1, 2018, the speaker of the senate and the speaker of the house of representatives shall establish an advisory task force to review the composition of Tennessee's current judicial districts codified at § 16-2-506.

(B) The task force shall be composed of eleven (11) members, as follows:

(i) Three (3) current trial court judges, one (1) representing each grand division, appointed by joint action of the speaker of the senate and speaker of the house of representatives;

(ii) Three (3) current district attorneys general, one (1) representing each grand division, appointed by joint action of the speaker of the senate and speaker of the house of representatives;

(iii) Three (3) current district public defenders, one (1) representing each grand division, appointed by the joint action of the speaker of the senate and speaker of the house of representatives; and

(iv) Two (2) citizen members, one (1) appointed by each speaker. The citizen members must reside in different grand divisions.

(C) The speakers shall jointly designate one (1) of the members to serve as chair of the task force.

(2)(A) By no later than December 1, 2019, the task force shall complete its findings and recommend and publish a proposed statewide judicial redistricting plan. The plan shall provide reasonable and timely access to Tennessee's circuit, chancery, and criminal courts and shall promote the efficient utilization of publicly funded resources allocated for the courts.

(B) Prior to completing its findings and recommending this plan, the task force shall conduct at least one (1) public hearing within each of the three (3) grand divisions and shall receive oral and written testimony from interested organizations and citizens of this state. In addition, the task force shall establish a publicly accessible judicial redistricting task force page on the website of the administrative office of the courts for redistricting-related information, including meeting notices and redistricting plans.

(3) The task force shall deliver a report of its findings, as well as its proposed judicial redistricting plan, to the governor, the speakers of the senate and house of representatives, the judiciary committee of the senate, the judiciary committee of the house of representatives, and the administrative office of the courts at least one (1) week prior to publication of the

proposed judicial redistricting plan.

(b)(1) The administrative office of the courts shall provide support services to the task force created under this section.

(2) The members of the task force shall serve without compensation but shall be entitled to reimbursement of any travel expenses incurred. All reimbursement for travel expenses shall be in conformity with the comprehensive state travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(3) The task force shall cease to exist upon completion of the task force's report and recommendations.

16-1-120. Processing passport applications — Photographs for passports.

If a court clerk chooses to process passport applications, the court clerk may take photographs for the passports and charge a reasonable fee for such service.

16-2-512. Recommendations classifying elected additional judges.

(a) Where § 16-2-506 requires the election of an additional judge in a judicial district, the presiding judge of the district shall notify the trial court vacancy commission in writing of the judge's recommendation as to whether the additional judge will be a circuit court judge, criminal court judge, or chancellor and of the part of court the judge or chancellor will serve. The recommendation must be made by January 1 of the year in which the additional judge is to be elected and must be made only after consultation with all other trial level judges in the district, all local bar associations in the district, and any other person or group with an interest in the recommendation.

(b) The trial court vacancy commission has thirty (30) days from receipt of the written recommendation provided for in subsection (a) to approve or reject it; provided, that the recommendation stands approved unless rejected by a two-thirds (2/3) vote of the entire commission. No recommendation shall be rejected except following a public hearing of the commission held upon ten (10) days' advance notice to the presiding judge who made the recommendation and to the public. At the hearing, interested parties may present evidence on the issue. If the recommendation is not approved or rejected within thirty (30) days, the recommendation is considered approved.

(c) Upon the trial court vacancy commission's approval of a recommendation pursuant to this section, it shall notify the governor of its decision. Upon receiving this recommendation, the governor shall send notice that a vacancy has occurred to the commission and shall fill the vacancy in accordance with title 17, chapter 4, part 3.

(d) The administrative director of the courts shall notify the presiding judge of the affected district of the commission's action and shall notify the election commission of each county in the affected district of the type of judge and part of court of the judge to be elected. Upon receiving such information, each election commission shall prepare the ballot to be used in such judicial election accordingly.

16-2-519. Creation of assistant district attorney positions.

(a) It is the declared policy of the general assembly to create assistant district attorney general (ADA) positions based upon the number of the ADA positions to population ratios being the primary consideration with secondary consideration being caseload when uniformly reported caseload statistics become available. The Tennessee district attorneys general conference is directed to make recommendations on this basis with the immediate objective being to achieve the following ratio:

Urban and rural districts—One (1) ADA per twenty thousand (20,000) population, according to the 1990 federal census or any subsequent federal census.

(b) As used in this section, “urban districts” means the second, sixth, eleventh, twentieth and thirtieth judicial districts and “rural districts” means all other judicial districts.

(c) For the sole purpose of computing the one (1) assistant district attorney per twenty thousand (20,000) population, the district attorney general in any one (1) county judicial district having a population of less than fifty thousand (50,000) shall be counted as one half ($\frac{1}{2}$) of an assistant district attorney.

(d) Until the various judicial districts have attained approximate equality in ADA to population ratios, other factors are assigned a lower priority than ADA to population ratios. When the ratio set out in this section has been achieved, other factors, including uniform caseload statistics, local funding and geographic conditions that create logistical problems in covering the judicial district, shall be considered in support of additional position requests.

16-3-803. Administrative director — Powers and duties.

(a) The administrative director of the courts shall work under the supervision and direction of the chief justice and shall, as the chief administrative officer of the state court system, assist the chief justice in the administration of the state court system to the end that litigation may be expedited and the administration of justice improved.

(b) The administrative director of the courts shall attend to duties that may be assigned by the supreme court or chief justice of the supreme court.

(c)(1) Acting in accordance with procedures established pursuant to § 9-6-103, the administrative director of the courts shall annually prepare, approve and submit a budget for the maintenance and operation of the state court system. When the budget for the maintenance and operation of the state court system is submitted to the department of finance and administration, the administrative director of the courts shall also submit copies of the budget to the speaker of the senate and the speaker of the house of representatives for referral and consideration by the appropriate standing committees of the general assembly.

(2) The administrative director of the courts shall administer the accounts of the state court system, including all accounts related to the state court system as may be designated by the comptroller of the treasury and the chief justice. The administrative director of the courts shall draw and approve all requisitions for the payment of public moneys appropriated for the maintenance and operation of the state court system, and shall audit claims and prepare vouchers for presentation to the department of finance and administration, including payroll warrants, expense warrants and

warrants covering the necessary cost of supplies, materials and other obligations by the various offices with respect to which the administrative director of the courts shall exercise fiscal responsibility.

(d) The administrative director of the courts shall, within budgetary limitations, provide the judges of the trial courts of record with minimum law libraries, the nature and extent of which shall be determined in every instance by the administrative director on the basis of need. All books furnished shall remain the property of the state, and shall be returned to the custody of the administrative director by each judge upon the retirement or expiration of the official duties of the judge.

(e) All functions performed by the administrative director of the courts that involve expenditures of state funds shall be subject to the same auditing procedures by the commissioner of finance and administration and the comptroller of the treasury as required in connection with the expenditure of all other state funds.

(f)(1) The administrative director of the courts shall, within the limit of appropriated funds, prepare for the supreme court's approval an annual judicial education plan providing for the orientation and continuing training and education of all elected or appointed judges of trial and appellate courts of record of this state.

(2) To the extent practicable, the annual judicial education plan shall provide that the orientation programs approved by the supreme court shall be made available to all newly elected or appointed judges of trial and appellate courts of record within one (1) year from the date of their initial appointment or election. The plan shall also provide, to the extent practicable, that all judges of trial and appellate courts of record whose terms exceed three (3) years shall, within two (2) years of the date of their initial election or appointment, be given the opportunity to attend judicial training programs approved by the supreme court.

(3) For the purpose of implementing the annual judicial education plan, the administrative director of the courts, with the approval of the chief justice, may apply for and expend grant funds from whatever source.

(4) The administrative director of the courts is authorized to recommend to the supreme court a plan whereby judges of trial and appellate courts of record who, on September 1, 1984, have not participated in training programs similar to those included in the annual judicial education plan, may be permitted to attend future orientation and training programs for judges made available through the annual plan.

(5) Nothing in this subsection (f) nor in any annual judicial education plan prepared by the administrative director of the courts and approved by the supreme court shall be construed to require judges whose salaries and other related expenses are not paid by state government to participate in any training or orientation program provided for in this subsection (f). With the agreement of appropriate units of local government to pay for the reasonable costs of the orientation and training programs, the administrative director of the courts may authorize judges whose salaries are paid by units of local government to participate in orientation or training programs made available in accordance with the approved annual plan.

(g) The administrative director of the courts shall continuously survey and study the operation of the state court system, the volume and condition of business in the courts of the state, whether of record or not, the procedures

employed by those courts, and the quality and responsiveness of all of the courts with regard to the needs of civil litigants and the needs of the criminal justice system throughout the state.

(h) The administrative director of the courts shall establish criteria, develop procedures and implement a Tennessee court information system (TnCIS). The system shall provide an integrated case management and accounting software system addressing the statutory responsibilities of the clerks of the general sessions, chancery, circuit and juvenile courts. The system shall also provide state-wide reporting and data transfer capabilities for the administrative office of the courts (AOC), department of human services, Tennessee bureau of investigation, department of safety and other state agencies determined by the AOC or as statutorily mandated. To ensure comparable data from all courts, the system shall be designed to report cases according to a standard definition of a case as set forth in § 16-1-117.

(i) It is the duty of the administrative office of the courts to collect, develop and maintain uniform statistical information relative to court caseloads in Tennessee. For the purposes of monitoring the operation of the court system, reducing unnecessary delay and assessing the responsiveness of the court system to the needs of litigants, victims of crime and the citizens of the state, the administrative director of the courts shall have the responsibility for annually collecting, compiling, analyzing and publishing caseload statistics pertaining to the court system. It is the responsibility of the administrative director of the courts to develop, define, update and disseminate standard, uniform measures, definitions and criteria for collecting statistics pertaining to the court system. These standards and reporting requirements shall be used for uniform statistical data collection in all courts throughout the state, as established by statute or by the rules of the supreme court.

(j) The administrative director of the courts shall prepare and distribute an annual report reflecting the operation of the courts of the state and highlighting those changes, innovations, or recommendations made or introduced to enhance the effectiveness of the courts.

(k) The administrative director of the courts shall conduct ongoing internal review, analysis and planning for the future needs of the state court system. The analysis shall be designed to devise ways of simplifying court system procedure, expediting the transaction of court system business and correcting weaknesses in the administration of justice.

(l) The administrative director of the courts shall:

(1) File a copy of the supreme court's policies and guidelines governing the reimbursement of expenses for judicial officers with the judiciary committee of the house of representatives, the judiciary committee of the senate, and the finance, ways and means committees of the senate and the house of representatives, the fiscal review committee, the comptroller of the treasury and the commissioner of finance and administration; and

(2) Respond in a timely manner to any appropriate request by these committees or officials for information concerning reimbursements made pursuant to the policies and guidelines.

(m) The administrative director of the courts shall annually prepare and distribute to the judiciary committee of the senate and judiciary committee of the house of representatives:

(1) A report detailing the expenditure of moneys in the civil legal representation of indigents fund; and

(2) A copy of any rules and policies adopted by the supreme court governing the expenditure and application of funds in the civil legal representation of indigents fund.

(n) The administrative office of the courts shall collect, develop and maintain statistical information relative to sentencing in Tennessee. To assist the administrative office of the courts, the clerks of the circuit and criminal courts shall send a copy of each judgment document for a felony conviction to the administrative office of the courts. These copies shall be forwarded to the administrative office of the courts no less than one (1) time each month so that all judgments rendered in one (1) month have been received by the fifteenth day of the following month. When an electronic transfer system is operational and approved by the administrative office of the courts, the judgment document for all felony convictions shall be electronically transmitted to the administrative office of the courts in the same manner required by this subsection (n) for paper copies.

(o) The administrative director of the courts shall administer finances related to the office's control and supervision of the existing state law libraries, including the:

- (1) Operation and maintenance of the libraries;
- (2) Preparation of warrants for the payment of obligations related to the operation and maintenance of the libraries; and
- (3) Recording of all transactions related to the administration of such finances in accordance with the laws and regulations governing state fiscal operations.

16-3-909. Duties of council — Fingerprint sample and criminal history records check — Reinstatement of license — Promulgation of rules and regulations.

(a) The purpose of the council is to ensure that uniform professional and contract standards are practiced and maintained by private corporations, enterprises and entities rendering general misdemeanor probation supervision, counseling and collection services to the courts. To such end, the council shall:

- (1) Provide oversight of private entities;
- (2) Promulgate uniform professional standards and uniform contract standards for private entities;
- (3) Establish forty (40) hours of orientation for new private probation officers and eight (8) hours of annual continuing education;
- (4) Promulgate rules and regulations regarding noncompliance with the uniform professional standards and uniform contract standards;
- (5) Promulgate rules and regulations requiring periodic registration of all private entities; and
- (6) Publish an annual summary report.
- (7) [Deleted by 2019 amendment.]

(b) The council:

- (1) May reinstate a license upon the payment of a renewal fee, as set by the council; and
- (2) Shall establish a late renewal fee, to be equal to twenty-five percent (25%) of the registration fee.

(c) All rules and regulations promulgated pursuant to subsection (a) shall be promulgated in accordance with the Uniform Administrative Procedures Act,

compiled in title 4, chapter 5.

(d)(1) All private probation officers to be employed by entities providing private probation services pursuant to this part shall:

(A) Be required to supply a fingerprint sample and submit to a criminal history records check to be conducted by the Tennessee bureau of investigation (TBI) and the federal bureau of investigation (FBI) or other vendor contracted for the same purposes prior to being employed with such entities; and

(B) Agree that the TBI may send to the council information indicating the results of the criminal history records check. The results will indicate whether the applicant has a criminal conviction that would result in a private probation officer being denied employment by such entities.

(2) The applicant shall pay any reasonable costs incurred by the TBI or FBI, or both, in conducting an investigation of an applicant for employment as a private probation officer. In lieu of additional criminal history records checks for subsequent applications for employment, the applicant may submit copies of the applicant's initial criminal history records check documentation and shall not be required to pay any additional costs.

16-11-206. Information to be collected and reported to the federal bureau of investigation-NICS index and the department of safety by those chancery courts in which commitments to a mental institution are ordered.

(a) As used in this section:

(1) "Adjudication as a mental defective or adjudicated as a mental defective" means:

(A) A determination by a court in this state that a person, as a result of marked subnormal intelligence, mental illness, incompetency, condition or disease:

(i) Is a danger to such person or to others; or

(ii) Lacks the ability to contract or manage such person's own affairs due to mental defect;

(B) A finding of insanity by a court in a criminal proceeding; or

(C) A finding that a person is incompetent to stand trial or is found not guilty by reason of insanity pursuant to §§ 50a and 72b of the Uniform Code of Military Justice, codified in 10 U.S.C. §§ 850a, 876b;

(2) "Judicial commitment to a mental institution" means a judicially ordered involuntary admission to a private or state hospital or treatment resource in proceedings conducted pursuant to title 33, chapter 6 or 7;

(3) "Mental institution" means a mental health facility, mental hospital, sanitarium, psychiatric facility and any other facility that provides diagnoses by a licensed professional of mental retardation or mental illness, including, but not limited to, a psychiatric ward in a general hospital; and

(4) "Treatment resource" means any public or private facility, service or program providing treatment or rehabilitation services for mental illness or serious emotional disturbance, including, but not limited to, detoxification centers, hospitals, community mental health centers, clinics or programs, halfway houses and rehabilitation centers.

(b) Those chancery courts wherein commitments to a mental institution are ordered pursuant to title 33, chapter 6 or chapter 7 or persons are adjudicated

as a mental defective shall enter a standing and continuing order instructing the clerk to collect and report as soon as practicable, but no later than the third business day following the date of such an order or adjudication, information described in subsection (c) regarding individuals who have been adjudicated as a mental defective or judicially committed to a mental institution for the purposes of complying with the NICS Improvement Amendments Act of 2007, P.L. 110-180.

(c) The following information shall be collected and reported to the federal bureau of investigation-NICS index and the department of safety, pursuant to subsection (b):

(1) Complete name and all aliases of the individual judicially committed or adjudicated as a mental defective, including, but not limited to, any names that the individual may have had or currently has by reason of marriage or otherwise;

(2) Case or docket number of the judicial commitment or the adjudication as a mental defective;

(3) Date judicial commitment ordered or adjudication as a mental defective was made;

(4) Private or state hospital or treatment resource to which the individual was judicially committed;

(5) Date of birth of the individual judicially committed or adjudicated as a mental defective, if such information has been provided to the clerk;

(6) Race and sex of the individual judicially committed or adjudicated as a mental defective; and

(7) Social security number of the individual judicially committed or adjudicated as a mental defective if available.

(d) The information in subdivisions (c)(1)–(7), the confidentiality of which is protected by other statutes or regulations, shall be maintained as confidential and not subject to public inspection pursuant to such statutes or regulations, except for such use as may be necessary in the conduct of any proceeding pursuant to §§ 38-6-109, 39-17-1316, and 39-17-1352 — 39-17-1354.

16-15-210. Vacancy in office of judge — Filling.

(a) Except as provided in subsection (b), any vacancy in the office of judge of the court of general sessions shall be filled by the county legislative body as provided in § 5-1-104.

(b)(1) In a multi-county court, the vacancy shall be filled by concurring resolutions of the legislative bodies of the affected counties.

(2) In the event of nonconcurrence, the vacancy shall be filled by resolution of the legislative body of the county of residence of the last judge of the multi-county court.

(c)(1) In the event of an interim suspension of a general sessions court or juvenile court judge pursuant to § 17-5-306(f), the county legislative body shall appoint a temporary replacement to serve until the interim suspension is lifted or the office becomes vacant.

(2) In a multi-county court, the temporary replacement shall be appointed by concurring resolutions of the legislative bodies of the affected counties. In the event of nonconcurrence, the temporary replacement shall be appointed by resolution of the legislative body of the county of residence of the judge who has been suspended.

16-15-303. General sessions court clerk.

(a) A general sessions court clerk shall:

(1) Retain, preserve and file away in order, and properly mark for easy reference all the papers in civil cases before them, unless returned or transmitted, in pursuance of law, to the circuit court upon appeal or otherwise;

(2) Transmit all the papers relative to the trial of a cause in which an appeal has been taken to the circuit court at least five (5) days before the term to which the appeal is returnable, unless the appeal is taken within the five (5) days, and then on, or by the first day of, the term;

(3) Transmit copies of such papers in the same way, in cases where only a portion of the parties have appealed;

(4) Return such papers, when an execution has been levied on real estate of the defendant, to the circuit court, on or before the second day of the term next after the levy; and

(5) Not issue an alias or pluries execution until the execution previously issued is returned, or affidavit made accounting for its absence, and a showing that it is unsatisfied.

(b) A general sessions court clerk shall keep, in a well-bound book, properly ruled for that purpose, a docket of all judgments rendered by the court, showing in whose favor and against whom each judgment is rendered, the names of the parties in full, and the date and amount of the judgment.

(c)(1) A general sessions court clerk shall also keep, in the same book, an execution docket, showing the amount of each execution, in whose favor and against whom issued, the date of issuance, to whom delivered, the date of return and by whom returned, and the substance of the return, specifying particularly whether satisfied in whole or in part.

(2) The general sessions court clerk shall enter in the execution docket, in continuous order, and in distinct columns, with proper date to each act:

(A) The number of each case;

(B) The date of trial, and of each continuance, if any;

(C) The names of the parties in full;

(D) The amount of the judgment;

(E) The name of the stayor, if any;

(F) The name of the officer who returns the warrant;

(G) The date of the issuance of each execution, and to whom delivered;

(H) The bill of costs, the items written in words, with the amounts in figures; and

(I) The date of the return of the execution, by whom returned, and the substance of the return.

(d) A substantial compliance with the requirements of this section is sufficient to render the proceedings and entries valid for all purposes, so far as the parties are concerned, and all persons claiming under them.

(e) It is a Class C misdemeanor for a clerk to fail to keep the docket of judgments rendered and an execution docket, as required by subsections (b) and (c). Conviction under this section is grounds for removal under title 8, chapter 47. In addition, a person injured by the failure of a general sessions court clerk to preserve and keep the clerk's papers or dockets may recover civil damages pursuant to the Tennessee Governmental Tort Liability Act, compiled in title 29, chapter 20.

(f)(1) Any information required to be kept as a public record by a clerk of a court of general sessions may be maintained on a computer or removable computer storage media in lieu of docket books or other bound books; provided, that the following standards are met:

(A) The information is available for public inspection, unless it is a confidential record according to law;

(B) Due care is taken to maintain the information as a public record during the time required by law for retention;

(C) All daily data generated and stored within the computer system shall be copied to computer storage media daily, and the newly created computer storage media more than one (1) week old shall be stored at a location other than at the building where the original is maintained; and

(D) The clerk can provide a paper copy of the information when needed or when requested by a member of the public.

(2) Nothing in subdivision (f)(1) shall be construed as requiring the clerk to sell the media upon which the information is stored or maintained.

(g)(1) As used in this subsection (g):

(A) "Adjudication as a mental defective or adjudicated as a mental defective" means:

(i) A determination by a court in this state that a person, as a result of marked subnormal intelligence, mental illness, incompetency, condition or disease:

(a) Is a danger to such person or to others; or

(b) Lacks the ability to contract or manage such person's own affairs due to mental defect;

(ii) A finding of insanity by a court in a criminal proceeding; or

(iii) A finding that a person is incompetent to stand trial or is found not guilty by reason of insanity pursuant to §§ 50a and 72b of the Uniform Code of Military Justice, codified in 10 U.S.C. §§ 850a, 876b;

(B) "Judicial commitment to a mental institution" means a judicially ordered involuntary admission to a private or state hospital or treatment resource in proceedings conducted pursuant to title 33, chapter 6 or 7;

(C) "Mental institution" means a mental health facility, mental hospital, sanitarium, psychiatric facility and any other facility that provides diagnoses by a licensed professional of mental retardation or mental illness, including, but not limited to, a psychiatric ward in a general hospital;

(D) "Treatment resource" means any public or private facility, service or program providing treatment or rehabilitation services for mental illness or serious emotional disturbance, including, but not limited to, detoxification centers, hospitals, community mental health centers, clinics or programs, halfway houses and rehabilitation centers.

(2) In addition to the duties prescribed in this part, the clerks of the general sessions courts wherein commitments to a mental institution are ordered pursuant to title 33, chapter 6 or 7 or persons are adjudicated as a mental defective shall collect and report as soon as practicable, but no later than the third business day following the date of such an order or adjudication, information described in subsection (c) regarding individuals who have been adjudicated as a mental defective or judicially committed to a mental institution after a finding of probable cause pursuant to § 33-6-422 for the purposes of complying with the NICS Improvement Amendments Act of

2007, P.L. 110-180.

(3) The following information shall be collected and reported to the federal bureau of investigation-NICS Index and the department of safety, pursuant to subdivision (g)(2):

(A) Complete name and all aliases of the individual judicially committed or adjudicated as a mental defective, including, but not limited to, any names that the individual may have had or currently has by reason of marriage or otherwise;

(B) Case or docket number of the judicial commitment or the adjudication as a mental defective;

(C) Date judicial commitment ordered or adjudication as a mental defective was made;

(D) Private or state hospital or treatment resource to which the individual was judicially committed;

(E) Date of birth of the individual judicially committed or adjudicated as a mental defective, if such information has been provided to the clerk;

(F) Race and sex of the individual judicially committed or adjudicated as a mental defective; and

(G) Social security number of the individual judicially committed or adjudicated as a mental defective if available.

(4) The information in subdivisions (g)(3)(A)–(G), the confidentiality of which is protected by other statutes or regulations, shall be maintained as confidential and not subject to public inspection pursuant to such statutes or regulations, except for such use as may be necessary in the conduct of any proceeding pursuant to §§ 38-6-109, 39-17-1316, and 39-17-1352 — 39-17-1354.

16-15-901. Issuance and service of civil warrants, writs and other papers. [Effective until January 1, 2020. See the version effective on January 1, 2020]

(a) Upon filing of civil warrants, writs and other papers, the clerk of the general sessions court in which the civil warrants, writs or other papers are filed, shall issue the required process, writs or other papers, and cause it or them, with necessary copies of the civil warrant, writ or papers, to be delivered for service to the person authorized to serve process as may be designated by the party filing the civil warrant, writ or other papers or the party's attorney if represented by counsel. The authorized person shall serve the civil warrant, writ or other papers, and the return endorsed on the warrant, writ or other papers shall be proof of the time and manner of service. A civil warrant, writ or other papers may be issued for service in any county, against any defendant or additional defendants.

(b) A civil warrant, attachment or any other leading process used to initiate an action in general sessions court and subpoenas or summons may be served by any person designated by the party or the party's attorney, if represented by counsel, who is not a party to the action and is not less than eighteen (18) years of age. Service of other process and orders of the courts of this state shall be by sheriffs, constables or as provided by law. The process server must be identified by name and address on the return.

(c) Nothing in this section shall affect existing laws with respect to venue.

16-15-901. Issuance and service of civil warrants, writs and other papers. [Effective on January 1, 2020. See the version effective until January 1, 2020]

(a) Upon filing of civil warrants, writs and other papers, the clerk of the general sessions court in which the civil warrants, writs or other papers are filed, shall issue the required process, writs or other papers, and cause it or them, with necessary copies of the civil warrant, writ or papers, to be delivered for service to the person authorized to serve process as may be designated by the party filing the civil warrant, writ or other papers or the party's attorney if represented by counsel. The authorized person shall serve the civil warrant, writ or other papers, and the return endorsed on the warrant, writ or other papers shall be proof of the time and manner of service. A civil warrant, writ or other papers may be issued for service in any county, against any defendant or additional defendants.

(b) A civil warrant, attachment or any other leading process used to initiate an action in general sessions court and subpoenas or summons may be served by any person designated by the party or the party's attorney, if represented by counsel, who is not a party to the action and is not less than eighteen (18) years of age. Service of other process and orders of the courts of this state shall be by sheriffs, constables or as provided by law. If service of process is made by a sheriff, constable, or other law enforcement officer, the process server must be identified by name and agency on the service return or in a supplemental affidavit. If service of process is made by a private process server, the process server must be identified by name and a mailing or physical address on the service return or in a supplemental affidavit. Failure of the process server to include this information does not render the service invalid if the service is otherwise valid, but the court may require a private process server to provide the private process server's mailing or physical address to the party on whom process was served.

(c) Nothing in this section shall affect existing laws with respect to venue.

16-17-101. Establishment of city courts.

(a) In each home rule municipality that does not have a city court ordained and established by the general assembly, a city court is created to try violations of municipal ordinances. The governing body of the municipality may increase the number of divisions of the court created by this subsection (a).

(b) The governing bodies of all home-rule municipalities may also decrease the number of divisions of city courts by ordinance, but no division shall be eliminated except when a term of a city court judge expires or when a vacancy in the office of city court judge exists.

(c) [Deleted by 2019 amendment.]

16-18-311. Compliance with the procedures and requirements for concurrent general sessions jurisdiction — Feasibility study committee to determine need of additional court to exercise general sessions jurisdiction.

(a) Notwithstanding any law to the contrary, on or after May 12, 2003, concurrent general sessions jurisdiction shall be newly conferred upon an existing or newly created municipal court only in compliance with the

procedures and requirements set forth in this section.

(1) A majority of the total membership of the municipal legislative body must vote in favor of seeking concurrent general sessions jurisdiction for an existing or newly created municipal court.

(2) The municipal legislative body must notify, by petition, the county legislative body of the municipality's intention to seek concurrent general sessions jurisdiction for the municipal court.

(3) The petition must contain the following:

(A) A plan for an adequate and secure courtroom;

(B) Agreement to comply with state mandated technical computer support comparable with the Tennessee court information system (TnCIS) program specifications and requirements;

(C) Agreement to comply with state laws governing general sessions court litigation taxes, costs, fees and assessments and to legally remit such items to the state department of revenue or to the county government, if appropriate; and

(D) Agreement to comply with state laws subjecting the financial transactions of the court to annual public audits.

(4) The municipal legislative body and the county legislative body must appoint a feasibility study committee. The membership of the committee shall consist of the county mayor, the municipal mayor, one (1) member of the municipal legislative body, one (1) member of the county legislative body, the district attorney general who serves the county and the district public defender who serves the county. The membership of the committee shall also consist of three (3) members appointed by the municipal legislative body from the following list: the chief of police, the city recorder/clerk, the city judge, the city attorney, and one (1) citizen member. The membership of the committee shall also consist of three (3) members appointed by the county legislative body from the following list: the sheriff who serves the county, a general sessions judge who serves the county, the general sessions court clerk, the county attorney, and one (1) citizen member.

(5) The feasibility study committee shall determine whether the county requires an additional court to exercise general sessions jurisdiction. In making the determination, the committee shall consider and evaluate the following factors:

(A) The economic, administrative and personnel impact of the proposal upon the existing general sessions court;

(B) The impact of the proposal upon existing judicial services and law enforcement resources;

(C) The extent, if any, to which the proposed plan is necessary to promote and ensure the efficient administration of justice in relation to county and municipal populations, county population density, geographic logistics and distances, caseloads, the number of judges, and the current caseload burden on the existing system;

(D) The plan's provision of adequate secure and comparable courtroom facilities for the hearing of cases in that location;

(E) The extent, if any, to which the proposed plan would unduly burden the existing staffs of the district attorney general or district public defender and the extent, if any, to which the plan proposes adequate funding for additional staff requirements; and

(F) The extent, if any, to which the proposed plan would provide for

compliance with state mandated technical computer support.

(6) By majority vote of its total membership, the feasibility study committee must agree upon written findings and recommendations and must submit the findings and recommendations to the municipal legislative body and to the county legislative body. The findings and recommendations must include one of the following alternatives:

(A) There is a clearly demonstrated need for a new general sessions court in the county, and the court would best be administered by the county;

(B) There is a clearly demonstrated need for a new general sessions court in the county, and the court would best be administered by the municipality, either as a new or existing municipal court with concurrent general sessions jurisdiction; or

(C) There is no clearly demonstrated need, at the time, for any of the alternatives set forth in subdivisions (a)(6)(A) and (B).

(7) If the feasibility study committee determines that there is no clearly demonstrated need for any of the alternatives set forth in subdivisions (a)(6)(A) and (B), then for one (1) year thereafter, neither the county nor the municipality may pursue further implementation of any of the alternatives set forth in subdivision (a)(6)(A) or (a)(6)(B). After passage of one (1) year, if the majority of the total membership of the municipal legislative body again votes in favor of seeking concurrent general sessions jurisdiction for an existing or newly created municipal court, then a petition must again be submitted to the county legislative body and the procedures set forth in this section must again be followed.

(8) If the feasibility study committee recommends any one (1) of the findings set forth in subdivision (a)(6)(A) or (a)(6)(B), and if the county wishes to pursue creation of a new general sessions court in the county or if the municipality wishes to pursue extension of concurrent general sessions jurisdiction to a newly created or existing municipal court, then the county or municipality, as appropriate, shall:

(A) Submit the written findings and recommendations of the feasibility study committee to the judiciary committee of the senate and the judiciary committee of the house of representatives; and

(B) Cause legislation to be timely introduced for consideration by the general assembly.

(b) Notwithstanding any law to the contrary, any legislation proposed to create a new general sessions court or to create a new municipal court with concurrent general sessions jurisdiction or to confer concurrent general sessions jurisdiction on an existing municipal court must be approved by a majority of the total membership of the judiciary committee of the senate prior to passage by the senate and must be approved by a majority of the total membership of the judiciary committee of the house of representatives prior to passage by the house of representatives.

(c) Notwithstanding any law to the contrary, if a municipality is located in two (2) or more counties of this state, then, as used in this section, "county" means the county of this state containing the largest geographical portion of the municipality.

16-18-312. Substituted judges — Sitting by interchange for other judges.

(a) If a municipal judge is unable to preside over municipal court for any reason, then a special substitute municipal judge shall be determined pursuant to an ordinance of the governing body of such municipal court. In the absence of such an ordinance, then the municipal judge may designate in writing, to be filed with the clerk of the municipal court, the name of a special substitute judge to hold court in the municipal judge's place and stead. The special substitute judge must meet the qualifications of a municipal judge and the special substitute judge shall take the same oath and have the same authority as the regular municipal judge to hold court for the occasion. Such appointment of a special substitute judge is effective for no more than thirty (30) days, after which a new appointment is required.

(b) Municipal court judges and general sessions court judges are empowered to sit by interchange for other municipal court judges.

16-21-101. [Repealed.]

16-21-102. [Repealed.]

16-21-103. [Repealed.]

16-21-104. [Repealed.]

16-21-105. [Repealed.]

16-21-106. [Repealed.]

16-21-107. [Repealed.]

16-21-108. [Repealed.]

16-21-109. [Repealed.]

16-21-110. [Repealed.]

16-21-111. Personal injury or death cases in chancery or circuit courts — Reports.

(a) The clerks of circuit courts and the clerks and masters of chancery courts shall report, on a monthly basis, to the administrative office of the courts on a form to be devised and distributed by the administrative office of the courts, the following data:

(1) The number of cases filed claiming money damages for personal injury or death;

(2) The number of such cases actually proceeding to trial; and

(3) For each such case actually proceeding to trial, the number of cases in which the plaintiff was awarded some money damages for personal injury or death, the amount of the verdict given in a jury case, the amount of judgment in a case without a jury, and any additur or remittitur awarded in the case by the trial judge.

(b) The presiding judge in each circuit shall verify the trial data reported to

the administrative office of the courts.

(c) The administrative office of the courts shall compile such data and report the findings of the previous fiscal year, on or before February 1 of each year, to the chair of the senate judiciary committee, the chair of the judiciary committee of the house of representatives, and the attorney general and reporter. The report is a public document, available on request from the administrative office of the courts.

17-1-107. Uniformly reported caseload statistics.

No additional state trial judge positions shall be created until the Tennessee comptroller of the treasury has established uniformly reported caseload statistics, which may include a weighted caseload formula and that prioritizes the need for additional positions among the judicial districts. The Tennessee comptroller of the treasury shall certify the data to the judiciary committee of the house of representatives and the judiciary committee of the senate.

17-2-202. Duty to interchange.

- (a) Each state trial court judge has an affirmative duty to interchange if:
 - (1) A judge has died or is unable to hold court;
 - (2) Two (2) or more judges have agreed to a mutually convenient interchange; or
 - (3) [Deleted by 2012 amendment.]
 - (4) The chief justice of the supreme court has assigned by order a judge to another court pursuant to Tenn. Sup. Ct. R. 11.

(b) A failure to comply with an interchange order of the supreme court is a judicial offense under § 17-5-301(j)(1)(B). The chief justice shall report such failure to comply immediately to the presiding judge of the board of judicial conduct. The clerk of the supreme court shall maintain such reports for public inspection.

17-2-309. Consultations regarding appointments.

(a) The supreme court shall advise and consult with the chairs of the judiciary and finance, ways and means committees of the house of representatives and the judiciary and finance, ways and means committees of the senate and with the commissioner of finance and administration whenever it has reason to believe that the effective administration of justice requires the appointment of one (1) or more senior justices or judges.

- (b) [Deleted by 2016 amendment].
- (c) [Deleted by 2016 amendment].

17-4-306. Vacancy filled as original appointment — Absence from meetings — Vacation of membership.

(a) A vacancy on the commission shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(b) A member of the commission who has four (4) unexcused absences from commission hearings during the member's term of office must vacate the member's office as a member of the commission.

17-5-101. Intent of chapter.

The regulation of judicial conduct is critical to preserving the integrity of the judiciary and enhancing public confidence in the judicial system. This chapter is intended to provide an orderly and efficient method for making inquiry into the physical, mental, and moral fitness of any Tennessee judge; the judge's manner of performance of duty; and the judge's commission of any act that reflects unfavorably upon the judiciary of the state or brings the judiciary into disrepute or that may adversely affect the administration of justice in this state. This chapter further is intended to provide a process by which appropriate sanctions may be imposed.

17-5-102. Applicability of chapter.

(a) This chapter applies to:

(1) All Tennessee judges, including, but not limited to, appellate, trial, general sessions, probate, juvenile, and municipal judges, senior judges, claims commissioners, and all other judges sitting on or presiding over any court created by the general assembly or by the express or implied authority of the general assembly;

(2) All persons for their conduct while sitting or presiding over any judicial proceeding, including, but not limited to, persons sitting by special appointment; and

(3) Candidates for judicial office, as defined by the Code of Judicial Conduct, Rule 10 of the Rules of the Tennessee Supreme Court.

(b) This chapter does not apply to administrative law judges.

(c) This chapter regulates judicial behavior, not judicial decision-making.

17-5-103. Liberal construction of chapter.

This chapter must be liberally construed to accomplish the declared purposes and intents set forth in this chapter.

17-5-201. Members of board of judicial conduct — Chair and vice chair — Investigative panels and hearing panels — Promulgation of rules.

(a) As of July 1, 2019, the existing membership of the Tennessee board of judicial conduct is vacated and reconstituted to consist of sixteen (16) members as follows:

(1) Two (2) current or former trial judges, to be appointed by the Tennessee trial judges association;

(2) One (1) current or former general sessions court judge, to be appointed by the Tennessee general sessions judges conference;

(3) One (1) current or former municipal court judge, to be appointed by the Tennessee municipal judges conference;

(4) One (1) current or former juvenile court judge, to be appointed by the Tennessee council of juvenile and family court judges;

(5) One (1) current or former court of appeals or court of criminal appeals judge, to be appointed by the Tennessee supreme court;

(6) Two (2) members who are attorneys licensed to practice law in this state but who are not current or former judges, to be appointed by the governor;

(7) Four (4) members, including three (3) who are neither a judge nor an attorney and one (1) who is a current or former judge, to be appointed by the speaker of the house of representatives; and

(8) Four (4) members, including three (3) who are neither a judge nor an attorney and one (1) who is a current or former judge, to be appointed by the speaker of the senate.

(b)(1) All appointments to the board must be made by July 1, 2019.

(2) In order to stagger the terms of the newly appointed board members, initial appointments must be made as follows:

(A) The members appointed under subdivisions (a)(1)-(5) serve initial terms of one (1) year, which expire on June 30, 2020;

(B) The members appointed under subdivision (a)(6) and the current or former judges appointed under subdivisions (a)(7) and (8) serve initial terms of two (2) years, which expire on June 30, 2021; and

(C) The members appointed under subdivisions (a)(7) and (8) who are neither judges nor attorneys serve initial terms of three (3) years, which expire on June 30, 2022.

(3) Following the expiration of members' initial terms as prescribed in subdivision (b)(2), all terms are for three (3) years, to begin on July 1 and terminate on June 30, three (3) years thereafter.

(4) Each member of the board appointed under subdivisions (b)(2)(A) and (B) may be appointed to two (2) additional consecutive three-year terms. Each member appointed under subdivision (b)(2)(C) may be appointed to one (1) additional consecutive three-year term.

(5) A member whose initial term is created by a vacancy and who has served in the position for less than three (3) years is eligible to serve two (2) consecutive three-year terms following the expiration of the term in which the vacancy occurred. Vacancies on the court for an unexpired term must be filled for the remainder of the term in the same manner that original appointments are made, but are for the duration of the unexpired term only. Vacancies are filled in the same manner that original appointments are made.

(6) A member who has served the maximum term is eligible for reappointment after the expiration of three (3) years.

(c) The board shall select:

(1) Its own chair from among the current or former judges serving on the board, who shall serve as a direct liaison to the members of the general assembly; and

(2) Its own vice chair.

(d)(1)(A) The chair shall divide the board into:

(i) Five (3) investigative panels of three (3) members each, with each investigative panel to be composed of at least one (1) member who is a current or former judge; and

(ii) Three (3) hearing panels of five (5) members each, with two (2) hearing panels to each be composed of three (3) non-judicial members and two (2) members who are current or former judges, and one (1) hearing panel to be composed of two (2) non-judicial members and three (3) members who are current or former judges.

(B) The chair shall not serve as a permanent member of an investigative panel or hearing panel but may serve as a member of a panel on a temporary basis to fill a vacancy.

(C) Membership on the panels may rotate in a manner determined by the chair; however, no members may sit on both the hearing and investigative panels for the same proceeding.

(2) A hearing panel has the duty and authority to rule on prehearing motions, conduct hearings on formal charges, make findings and conclusions, impose sanctions, or dismiss the case.

(3)(A) An investigative panel has the duty and authority to:

(i) Review the recommendations of the disciplinary counsel after a preliminary investigation and either authorize a full investigation or dismiss the complaint; and

(ii) Review the recommendations of the disciplinary counsel after a full investigation and approve, disapprove, or modify the recommendations as provided in § 17-5-303(c)(3).

(B) The investigative panel shall require a full investigation when a motion to dismiss a complaint fails to receive a unanimous vote from the panel or where a motion to authorize a full investigation passes by a majority vote of the panel.

(4) An attorney member of the board shall not sit on an investigative or hearing panel if the attorney has ever appeared before the judge against whom the complaint is filed.

(5)(A)(i)(a) A current or former judge who serves on the board and is the subject of a full investigation by the board or is a party to a hearing before the board must recuse himself or herself from the board pending the completion of such action, with the vacancy to be filled for the duration of the recusal only.

(b) A current or former judge who is subject to a deferred discipline agreement must recuse himself or herself from the board for the duration of the agreement, with the vacancy to be filled for the duration of the recusal only.

(ii) A citizen member of the board must recuse himself or herself to avoid any impropriety, appearance of impropriety, or conflict of interest relating to the person's duties as a board member and matters that may come before the board.

(B) A current or former judge whose conduct results in the board taking public disciplinary action against the judge will result in the judge's automatic dismissal from the board, creating a vacancy to be filled by the appropriate appointing authority.

(C) If a member recuses himself or herself or is dismissed pursuant to this subdivision (d)(5), all board matters may be heard by the remaining members of the board or, at the option of the members, a temporary replacement may be designated from the board by a majority vote of such members to sit on any investigative or hearing panel the recused or dismissed member was on.

(e) The board shall sit at such times and in such places as it may, from time to time, deem expedient.

(f) The board may promulgate rules regulating the practice and procedure before the board. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(g) The clerk of the supreme court serves as the clerk of the board, and shall keep such records, minutes, and dockets as the board from time to time prescribes.

(h) Members of the board receive no compensation for their services;

however, they are reimbursed for food, lodging, and travel expenses pursuant to policies and guidelines promulgated by the supreme court. All expenses for which reimbursement is allowed under this section must be submitted by the members of the board to the administrative director of the courts upon forms provided and prescribed by that officer.

(i) The appointing authorities, in making their appointments, shall strive to ensure the makeup of the board reflects the diversity of persons in Tennessee.

17-5-202. Monthly and quarterly reports — Records retention policy.

(a)(1) By the twentieth day of each month, the board shall compile and transmit to the judiciary committee of the house of representatives and the judiciary committee of the senate a report containing at least the following information for the previous month:

- (A) The number and category of complaints opened;
- (B) The number and category of complaints closed; and
- (C) The disposition of the complaints closed by category.

(2) The monthly report must also contain a cumulative, year-to-date total for the complaints reported in subdivisions (a)(1)(A)–(C).

(b) By the twentieth day of January, April, July, and October of each year, the board shall compile and transmit to the judiciary committee of the house of representatives and the judiciary committee of the senate a report containing at least the following information for the prior three-month period:

- (1) The number of complaints opened;
- (2) The number of complaints closed;
- (3) The disposition of complaints closed;
- (4) The number of complaints pending;
- (5) The number of complaints for which probable cause has been found;
- (6) The number of complaints for which formal charges have been filed based on a recommendation by an investigative panel, including the nature of the charge, the names of the complainant or complainants, and the judge against whom the complaint is filed;

(7) The nature of any complaint filed according to the following categories:

- (A) Failure to comply with the law;
- (B) Bias, prejudice, and unfairness;
- (C) Discourtesy;
- (D) Abuse of office;
- (E) Delay;
- (F) Ex parte communication;
- (G) Disability;
- (H) Political violation;
- (I) Recusal; and
- (J) Miscellaneous;

(8) The type of judge against whom a complaint is filed by category; and

(9) A list of votes taken by each board member as follows:

- (A) The member's name;
- (B) The number of times the member voted to dismiss a complaint while on an investigative panel; and
- (C) The number of times the member voted to authorize an investigation while on an investigative panel.

(c) The quarterly reports must contain a cumulative, year-to-date total of

the information compiled in subsection (b).

(d) The October report must also contain a five-year statistical comparison of the prior five (5) fiscal years for the same categories.

(e) The board shall promulgate rules to establish a formal records retention policy and shall review the policy on an annual basis to determine if changes should be made. Such rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

17-5-203. Notice provided to speakers.

(a) The chair of the board shall provide the speaker of the senate and the speaker of the house of representatives with the name, type of judge, judicial district, if applicable, the reason for the reprimand, and the number of previous reprimands within five (5) business days of the occurrence of each of the following actions:

(1) A judge receives a second or subsequent public reprimand for conduct occurring during the period of time the person is a sitting judge;

(2) A judge receives a second or subsequent private reprimand for conduct within the same misconduct category set out in § 17-5-202(b)(7) occurring during any eight-year term the person holds the office of judge; or

(3) A judge receives a third or subsequent private reprimand for conduct within any of the misconduct categories set out in § 17-5-202(b)(7) occurring during any eight-year term the person holds the office of judge.

(b)(1) The notice provided to the speakers pursuant to subdivision (a)(1) is a public record.

(2) The notice provided to the speakers pursuant to subdivision (a)(2) or (a)(3) remains confidential unless the general assembly opens an investigation of a judge pursuant to article VI, § 6 or article V of the Tennessee Constitution.

17-5-301. Powers of board — Disciplinary counsel.

(a) The board is given broad powers to investigate, hear, and determine charges sufficient to warrant sanctions or removal, and to carry out its duties in all other matters as set forth in this chapter.

(b) The board is specifically authorized to administer oaths and affirmations, to issue process to compel the attendance of witnesses and the production of evidence, to conduct hearings, and to use, exercise, and enjoy any of the powers normally exercised by courts of record in this state. The Tennessee Rules of Civil Procedure are applicable, and the Tennessee Rules of Evidence govern the presentation of proof. The board shall conduct discovery and review the materials collected in camera; provided, that only materials relevant to the investigation shall be made public.

(c) No action of the board is valid unless concurred in by a majority of the members voting upon the action.

(d) The attorney serving as disciplinary counsel for the board immediately preceding July 1, 2019 shall relinquish the position and a new disciplinary counsel is to be appointed by the board. The disciplinary counsel shall serve at the pleasure of the board and may be removed by the board. The disciplinary counsel shall report to the board upon appointment. The disciplinary counsel may employ additional attorneys or staff for administrative support, subject to the approval of the board. Compensation for the disciplinary counsel and

additional personnel is fixed by the board. This section shall not be construed to preclude disciplinary counsel employed by the board of professional responsibility from acting as disciplinary counsel and the staff and physical resources of the board of professional responsibility from being utilized, with the approval of the court, to assist in the performance of the disciplinary counsel's functions effectively and without delay. The board shall compensate the board of professional responsibility for the use of any such staff and physical resources.

(e) The disciplinary counsel has the authority and duty to:

(1) Receive and screen complaints, refer complaints to other agencies when appropriate, conduct preliminary investigations, make recommendations to the investigative panel of the board and, upon authorization, conduct full investigations, notify complainants about the status and disposition of their complaints, make recommendations to the investigative panel on the disposition of complaints after full investigation, file formal charges subject to approval of the investigative panel when directed to do so by the investigative panel, and prosecute formal charges;

(2) Maintain permanent records of the operations of the disciplinary counsel's office, including receipt of complaints, screening, investigation, and filing of formal charges in judicial discipline and incapacity matters;

(3) Draft decisions, orders, reports, and other documents on behalf of the hearing and investigative panels if directed by the board;

(4) Compile statistics to aid in the administration of the system, including, but not limited to, a log of all complaints received, investigative files, and statistical summaries of docket processing and case dispositions, consistent with § 17-5-202;

(5) Seek investigative assistance from the Tennessee bureau of investigation, or from any district attorney general and, in appropriate cases, employ private investigators or experts, as necessary, to investigate and process matters before the board. Such action may only be taken in concurrence with the applicable investigative panel; and

(6) Perform other duties at the direction of a majority of the board.

(f)(1) The board has the power to impose any, or any combination, of the following:

(A) Suspension without impairment of compensation for such period as the board determines;

(B) Imposition of limitations and conditions on the performance of judicial duties, including the issuance of a cease and desist order;

(C) Private reprimand by the investigative panel. A private reprimand, whether imposed by the board or by an investigative panel, may be used in subsequent proceedings as evidence of prior misconduct solely upon the issue of the sanctions to be imposed;

(D) Entry into a deferred discipline agreement;

(E) Public reprimand; and

(F) Entry of judgment recommending removal of the judge from office.

(2) Disciplinary counsel fees and costs related to the hearing by a hearing panel shall not be taxed against the judge unless the sanction imposed requests the judge's removal from office.

(g) For purposes of this part, the following definitions apply:

(1) "Deferred discipline agreement" means a response to misconduct that is minor and can be addressed through treatment, training, or a rehabilita-

tion program under which the judge agrees with the recommendation of the investigative panel of the board to undergo evaluation or treatment, or both; participate in educational programs; or take any other corrective action. Any other disciplinary sanction arising from the same conduct is suspended during the term of a deferred discipline agreement, and no further sanction may be imposed upon the successful completion of the deferred disciplinary agreement by the judge. The disciplinary counsel may proceed with other appropriate action upon a judge's failure to comply with the disciplinary agreement;

(2) "Private reprimand" means a form of non-public discipline imposed by a letter that details the finding of minor judicial misconduct and enumerates the reasons that such conduct is improper or brings discredit upon the judiciary or the administration of justice; and

(3) "Public reprimand" means a private reprimand that is released to the public.

(h) A sanction imposed by the board does not violate the prohibition of article VI, § 7 of the Tennessee Constitution.

(i) The board or the investigatory panel shall consider the following criteria in determining the sanction or combination of sanctions appropriate for the level of culpability involved in the judge's misconduct:

(1) Whether the misconduct is an isolated instance or evidences a pattern of conduct;

(2) The nature, extent, and frequency of occurrence of the acts of misconduct;

(3) Whether the misconduct occurred in or out of the courtroom;

(4) Whether the misconduct occurred while the judge was acting in an official capacity;

(5) Whether the judge has acknowledged or recognized the occurrence, nature, and impropriety of the acts;

(6) Whether the judge has made an effort to change or modify the conduct;

(7) The level of sanction, if any, previously rendered against other judges for the same conduct;

(8) Whether there have been prior complaints about the judge, except where prior complaints have been found to be frivolous, unfounded, or without jurisdiction pursuant to § 17-5-304;

(9) The effect of the misconduct upon the integrity of, and respect for, the judiciary;

(10) The extent to which the judge exploited the judicial position for personal gain or satisfaction; and

(11) The sanction or sanctions imposed against other judges for the same or similar misconduct under the same or similar circumstances.

(j)(1) The board may consider the following offenses in determining the sanction or combination of sanctions appropriate for the level of culpability involved in the judge's conduct:

(A) Willful misconduct relating to the official duties of the office;

(B) Willful or persistent failure to perform the duties of the office;

(C) A violation of the code of judicial conduct as set out in Rule 10 of the Rules of the Tennessee Supreme Court;

(D) A violation of the Tennessee Rules of Professional Conduct as set out in Rule 8 of the Rules of the Tennessee Supreme Court, as is applicable to judges;

(E) A persistent pattern of intemperate, irresponsible, or injudicious conduct;

(F) A persistent pattern of discourtesy to litigants, witnesses, jurors, court personnel, or lawyers;

(G) A persistent pattern of delay in disposing of pending litigation; and

(H) Any other conduct calculated to bring the judiciary into public disrepute or to adversely affect the administration of justice.

(2) The legal analysis, findings of fact, and conclusions of law of a written opinion or order by a judge are not grounds for sanction under this subsection (j); provided, that the personal views of a judge contained within a written opinion or order by a judge are not protected by this subdivision (j)(2).

17-5-302. Investigation and action if reason to believe judge is disabled.

(a) The board is authorized, on its own motion, or pursuant to the complaint of a person having reason to believe a judge is disabled, to investigate and take appropriate action, including recommendation of removal from office, in any case wherein an active judge is suffering from any disability, physical or mental, that is or is likely to become permanent and that would substantially interfere with the prompt, orderly, and efficient performance of the judge's duties.

(b) All complaints made under this section are confidential and privileged.

(c) If the board recommends removal from office under this section, the aggrieved judge may appeal to the supreme court as provided in § 17-5-309.

17-5-303. Investigations of complaints by disciplinary counsel — Recommendation by disciplinary counsel — Action by investigative panel.

(a) The disciplinary counsel shall evaluate all information coming to the disciplinary counsel's attention by complaint, upon the request of any member of the board, or from any other credible source that alleges judicial misconduct or incapacity within fourteen (14) days of the date of a written complaint being filed, a request being submitted, or the receipt of information from a credible source alleging judicial misconduct or incapacity.

(b) In instances in which a complaint is filed, the complaint must be submitted in writing, must contain the name of the complainant, must be signed by the complainant, and must allege specific facts directly relating to the alleged misconduct or incapacity of the judge in question. The disciplinary counsel shall review all complaints and if, in the judgment of the disciplinary counsel, the complaint establishes probable cause that the conduct complained of occurred and violates § 17-5-301(j), the disciplinary counsel shall conduct a preliminary investigation, subject to review by the investigative panel pursuant to subdivision (c)(3). The preliminary investigation must be completed within sixty (60) days of the receipt of the complaint, unless the chair authorizes additional time for the completion of the investigation. If the disciplinary counsel believes the complaint fails to establish probable cause that either the conduct occurred or the conduct constituted a violation of § 17-5-301(j), the disciplinary counsel shall recommend dismissal of the complaint or, if appropriate, refer the matter to another agency. The recommendation for dismissal is subject to review by the investigative panel

pursuant to subdivision (c)(3).

(c)(1) The disciplinary counsel may conduct interviews and examine evidence to determine whether the specific facts alleged are true and, if so, whether the facts establish probable cause that a violation of § 17-5-301(j) has occurred; however, the disciplinary counsel shall not issue a subpoena to obtain testimony or evidence until the investigative panel authorizes a full investigation pursuant to subdivision (c)(3).

(2) If the disciplinary counsel believes there is evidence supporting the allegations against a judge, the disciplinary counsel shall recommend to the investigative panel assigned to the case that the panel authorize a full investigation. The disciplinary counsel may also recommend a full investigation when the disciplinary counsel believes there is evidence that would establish probable cause that a violation of § 17-5-301(j) has occurred and such evidence could be obtained by subpoena or further investigation. In all other cases, the disciplinary counsel must recommend that the matter be dismissed. The disciplinary counsel shall make the recommendation to the investigative panel within fourteen (14) days of the disciplinary counsel's completion of the preliminary investigation.

(3) The investigative panel shall review the disciplinary counsel's recommendations and either dismiss the complaint or authorize a full investigation within fourteen (14) days of receipt of the disciplinary counsel's recommendation. The disciplinary counsel has no authority to dismiss a complaint without the review of and approval by the investigative panel.

(d)(1) Within fourteen (14) days after the investigative panel authorizes a full investigation, the disciplinary counsel shall give the following notice to the judge by certified mail:

(A) A specific statement of the allegations being investigated and the canons or rules allegedly violated, with the provision that the investigation can be expanded, if appropriate;

(B) The judge's duty to respond;

(C) The judge's opportunity to meet with the disciplinary counsel; and

(D) The name of the complainant, unless the investigative panel determines that there is good cause to withhold such information.

(2) The investigative panel may defer the giving of notice; however, notice must be given pursuant to this section before making a determination other than dismissal of the complaint.

(3) The disciplinary counsel shall request the judge to file a written response within fourteen (14) days after service of the notice.

(e)(1) The disciplinary counsel shall complete its investigation within thirty-five (35) days of being authorized by the investigative panel. The disciplinary counsel shall notify the investigative panel of disciplinary counsel's recommendation within seven (7) days of completion of the disciplinary counsel's investigation. The disciplinary counsel may recommend to the investigative panel any, or any combination, of the following:

(A) Dismissal;

(B) Private reprimand, deferred discipline agreement, public reprimand, or any other sanction authorized under § 17-5-301(f)(1);

(C) The filing of formal charges;

(D) Referral to an appropriate agency; or

(E) A stay of the thirty-five-day period for completing the investigation as prescribed in this subdivision (e)(1).

(2) The investigative panel shall act on the disciplinary counsel's recommendation within ten (10) days of its receipt. The investigative panel may adopt, reject, or modify the recommendation of the disciplinary counsel. If the investigative panel finds a violation for which the imposition of a sanction is not warranted, it may dismiss the complaint. If the investigative panel finds that there is reasonable cause to believe the judge committed a judicial offense:

(A) It may direct the disciplinary counsel to file formal charges;

(B)(i) It may propose any, or any combination, of the following to the judge:

(a) Private reprimand;

(b) Deferred discipline agreement;

(c) Public reprimand; or

(d) Any other sanction authorized under § 17-5-301(f)(1); and

(ii) If the judge consents, the investigative panel shall impose the sanction or implement the deferred sanction agreement; or

(C) If the judge does not consent to the proposed sanction or the deferred discipline agreement, the investigative panel may direct the disciplinary counsel to either file formal charges or dismiss the complaint.

(f) If the investigative panel finds there is reasonable cause to believe the judge committed a judicial offense, and the investigative panel directs the disciplinary counsel to file a formal charge, then upon the filing of the formal charge, all records, actions, and proceedings of the board shall be subject to § 10-7-503 and title 8, chapter 44, except that the board may deliberate in private.

(g) Upon the filing of an indictment, presentment, or information charging a judge with a felony under the law of any state or under federal law, the board may immediately place the judge on interim suspension.

17-5-304. Investigation and dismissal of groundless complaint.

If it is determined that the charges against a judge are frivolous or unfounded, or beyond the permissible scope of the board's inquiry, the matter will be closed and all documents, records, and papers pertaining to the charges must be destroyed and the board's docket must recite the investigation and dismissal of a groundless complaint.

17-5-305. Immunity of members of board, disciplinary counsel, and their staff.

Members of the board, the disciplinary counsel, and their staff are immune from civil suit for all conduct in the course of their official duties, except in cases of gross negligence or willful misconduct.

17-5-306. Formal charges — Answer — Failure to appear — Stated sanction.

(a) When, in the preliminary judgment of the investigative panel, there is probable cause to believe the judge under investigation is guilty of one (1) or more of the offenses under § 17-5-301(j), or is suffering from a disability as set forth in § 17-5-302, it is the duty of disciplinary counsel to give the judge under investigation written notice of the details of the formal charges.

(b) The formal charges must give fair and adequate notice of the nature of

the alleged misconduct or incapacity. The disciplinary counsel shall file the formal charges with the board. The disciplinary counsel shall cause a copy of the formal charges to be served on the judge or the judge's counsel by certified mail and shall file proof of service with the board.

(c) The judge has fourteen (14) days from the date of receipt of written notice of the formal charge to file an answer with the board and serve a copy on the disciplinary counsel.

(d) A judge who raises a defense based on a mental or physical condition waives any medical privilege.

(e) If the judge fails to answer the formal charges, then the failure to answer constitutes an admission of the factual allegations.

(f) If the judge fails to appear when specifically ordered to do so by the hearing panel or the board, the judge is deemed to have admitted the factual allegations that were to be the subject of the appearance and to have conceded the merits of any motion or recommendation to be considered at the appearance. Absent good cause, the hearing panel or board shall not continue or delay proceedings because of the judge's failure to appear.

(g)(1) The judge may agree with the disciplinary counsel that the judge shall admit to any or all of the formal charges in exchange for a stated sanction at any time after the filing of formal charges and before final disposition. The agreement must be submitted to the hearing panel assigned to the case, which shall either:

(A) Reject the agreement; or

(B) Approve the agreement and enter the order to sanction the judge.

(2) If the stated sanction is rejected by the hearing panel, the agreement must be withdrawn and cannot be used against the judge in any proceedings.

(3) A judge who consents to a stated sanction shall sign an affidavit stating that:

(A) The judge consents to the sanction;

(B) The consent is freely and voluntarily rendered;

(C) There is a pending proceeding involving allegations of misconduct, which must be specifically set forth in the affidavit; and

(D) The facts set forth in the affidavit are true.

(4) The affidavit must be filed with the board upon its approval by the hearing panel. The affidavit remains confidential until it is filed with the board. The final order of sanction must be based on the formal charges and the conditional admission.

17-5-307. Hearing — Quorum — Clear and convincing evidence.

(a) The matter must be set for hearing within thirty (30) days from the date the answer is filed. The hearing is a full evidentiary hearing at which the judge is entitled to due process, including the right to be represented by counsel, the right of compulsory process to secure the attendance of witnesses, the right of confrontation and of cross-examination of witnesses, and the right to a speedy and public trial. Upon demand of the judge, or upon a finding by the board that the public interest would be served, the trial must be conducted in the county of the judge's residence. A complete transcript of the trial must be prepared by a court reporter.

(b) The hearing panel shall conduct the hearing. Members of the investigative panel for the particular cause shall not participate in the hearing or the

deliberations of the cause.

(c) A majority of the hearing panel constitutes a quorum, and a quorum of the hearing panel is required to hold a hearing. The hearing panel shall decide a matter only upon the concurrence of a majority of all members of the panel hearing the matter. The decision of the hearing panel is the decision of the board.

(d) Charges of misconduct must be established by clear and convincing evidence.

17-5-308. Dismissal of charges or imposition of sanctions — Findings and judgment — Moot removal recommendation.

(a) The board, acting through the hearing panel, may dismiss the charges or impose any sanction authorized in § 17-5-301(f)(1) at the conclusion of the hearing.

(b) The board shall issue a formal finding of fact and opinion within thirty (30) days of the conclusion of the hearing regardless of the sanction imposed. The hearing panel may make a written request to the chair of the board for an extension of time within which to file its findings and judgment. If the hearing panel does not submit its findings and judgment within thirty (30) days, the disciplinary counsel shall report the failure to submit such findings and judgment to the board, which may take any action it deems necessary to secure the submission of the information. The failure of the hearing panel to meet the deadline is not grounds for dismissal of the formal charges.

(c) If the board recommends the removal of a judge from office and by reason of resignation, death, or retirement, the board determines that its recommendation is moot, its formal opinion shall so state. For purposes of this subsection (c), the board's removal recommendation shall be considered moot only if the board determines there is no further punitive action the general assembly could take against the judge.

17-5-309. Appeal by aggrieved judge.

(a) The aggrieved judge may appeal to the supreme court, as a matter of right, within fourteen (14) days from the date of entry of the judgment of the board. The record on appeal must conform to the requirements of Rule 24 of the Tennessee Rules of Appellate Procedure.

(b)(1) The review in the supreme court is de novo on the record made before the board. There is no presumption of correctness of the judgment or the findings of the board.

(2) The supreme court shall convene within seven (7) days after all briefs are filed to hear oral arguments and shall file a written opinion within fourteen (14) days thereafter.

17-5-310. Action of board affirmed — Transmittal of recommendation of removal to general assembly.

(a) If the supreme court affirms the action of the board as provided in § 17-5-308, the judgment of the supreme court is final. If the supreme court affirms the action of the board in recommending removal of the judge in accordance with § 17-5-302 or §§ 17-5-308 and 17-5-301(f)(1)(F), the recommendation for removal must be transmitted to the general assembly for a final

determination. However, if the supreme court affirms the board's action recommending the removal of a judge and its determination that the recommendation is moot as provided in § 17-5-308(c), the matter may not be transmitted to the general assembly for a final determination but is final upon the supreme court's action.

(b) The clerk of the supreme court shall send written notice of the supreme court's action to affirm the recommendation for removal to the speaker of the senate and speaker of the house of representatives. The clerk of the supreme court shall certify the entire record, including the briefs filed in the supreme court and the opinion of that court, to the speaker of the senate and the speaker of the house of representatives within five (5) days of the clerk's receipt of such record.

(c) The procedure for the removal of a judge provided in accordance with this chapter must not be construed as limiting or altering the power of impeachment, as provided in the Tennessee Constitution, article 5 or the power of removal as provided in the Tennessee Constitution, article VI, § 6.

17-5-311. Conflict between timeframes.

If a conflict arises between the timeframe provided for in this chapter and the timeframe set out in the rules of practice and procedure, the rules of practice and procedure shall control.

18-1-202. Documents disposable.

(a)(1) In all cases that have been finally disposed of, for a period of more than ten (10) years, the clerks of the courts of record are empowered and authorized under the direction and order of the judges of their respective courts to dispose of the records, dockets, books, ledgers and other documents in all such cases, except the clerk shall retain and safely keep the pleadings, original process and original opinion, if any, all original rules, appearance and execution dockets, minute books, plat or plan books; provided, that all other records, dockets, books, ledgers and documents maintained by the clerks may be disposed of by the clerks after they have ceased to be current after a period of ten (10) years; provided, however, that the disposition is ordered by the respective judges of the courts.

(2) Notwithstanding subdivision (a)(1), the clerks of the juvenile courts are empowered and authorized under the direction and order of the judges of their respective courts to dispose of original pleadings, process, opinions, records, dockets, books, ledgers, and all other documents in delinquent and unruly juvenile court cases after a period of ten (10) years following the juvenile reaching eighteen (18) years of age. Prior to ordering the clerk to dispose of original documents, the court must notify the district attorney general of the proposed order and provide the district attorney general reasonable time to file a notice of opposition to the proposed order.

(b) In civil cases, a judge may order the clerk to destroy discovery materials, briefs, cost bonds, subpoenas and other temporary records three (3) years after the final disposition of the case or three (3) years after records sealed by order of the court have been unsealed. When the order is entered, the court clerk shall notify the parties of the three-year disposition schedule for temporary records, and that the parties may remove temporary records filed by the party during the three-year period. For the purpose of this subsection (b), "final

disposition of a case” means the time when judgment has been entered and the appeal times have lapsed for all parties. This subsection (b) shall not apply if any party is a minor.

18-6-109. Duties as to marriages.

(a) The county clerk has the following duties as to marriages:

(1) To endorse on or append to the marriage license the form of the return; and

(2) To register, in a well-bound book, the names of the parties, and the date of the issuance of a marriage license, and to copy immediately, under or opposite thereto, the return of the proper functionary who solemnized the rites of matrimony, with the date thereof, and file and retain the license and return thereof in such clerk’s office or other suitable facility.

(b) The records described in subdivision (a)(2) are public records.

(c) As used in this section, “suitable facility” means a facility that stores local government records securely against theft and natural disasters.

20-6-102. Use of identifying information in electronic or paper filing.

(a) Unless otherwise required by statute, court rule, or court order, in an electronic or paper filing with the court that contains an individual’s social security number, taxpayer identification number, or birth date; the name of an individual known to be a minor; or a financial account number, a party or nonparty making the filing shall include only:

(1) The last four (4) digits of the social security number and taxpayer identification number;

(2) The year of the individual’s birth;

(3) The minor’s initials; and

(4) The last four (4) digits of the financial account number.

(b) This section does not apply to filings in juvenile court.

20-17-101. Short title.

This chapter shall be known and may be cited as the “Tennessee Public Participation Act.”

20-17-102. Purpose of chapter.

The purpose of this chapter is to encourage and safeguard the constitutional rights of persons to petition, to speak freely, to associate freely, and to participate in government to the fullest extent permitted by law and, at the same time, protect the rights of persons to file meritorious lawsuits for demonstrable injury. This chapter is consistent with and necessary to implement the rights protected by Article I, §§ 19 and 23, of the Constitution of Tennessee, as well as by the First Amendment to the United States Constitution, and shall be construed broadly to effectuate its purposes and intent.

20-17-103. Chapter definitions.

As used in this chapter:

(1) “Communication” means the making or submitting of a statement or document in any form or medium, including oral, written, audiovisual, or electronic;

(2) “Exercise of the right of association” means exercise of the constitutional right to join together to take collective action on a matter of public concern that falls within the protection of the United States Constitution or the Tennessee Constitution;

(3) “Exercise of the right of free speech” means a communication made in connection with a matter of public concern or religious expression that falls within the protection of the United States Constitution or the Tennessee Constitution;

(4) “Exercise of the right to petition” means a communication that falls within the protection of the United States Constitution or the Tennessee Constitution and:

(A) Is intended to encourage consideration or review of an issue by a federal, state, or local legislative, executive, judicial, or other governmental body; or

(B) Is intended to enlist public participation in an effort to effect consideration of an issue by a federal, state, or local legislative, executive, judicial, or other governmental body;

(5) “Legal action” means a claim, cause of action, petition, cross-claim, or counterclaim or any request for legal or equitable relief initiated against a private party;

(6) “Matter of public concern” includes an issue related to:

(A) Health or safety;

(B) Environmental, economic, or community well-being;

(C) The government;

(D) A public official or public figure;

(E) A good, product, or service in the marketplace;

(F) A literary, musical, artistic, political, theatrical, or audiovisual work; or

(G) Any other matter deemed by a court to involve a matter of public concern; and

(7) “Party” does not include a governmental entity, agency, or employee.

20-17-104. Petition to dismiss legal action filed in response to party’s exercise of the right of free speech, right to petition, or right of association — Response — Stay of discovery.

(a) If a legal action is filed in response to a party’s exercise of the right of free speech, right to petition, or right of association, that party may petition the court to dismiss the legal action.

(b) Such a petition may be filed within sixty (60) calendar days from the date of service of the legal action or, in the court’s discretion, at any later time that the court deems proper.

(c) A response to the petition, including any opposing affidavits, may be served and filed by the opposing party no less than five (5) days before the hearing or, in the court’s discretion, at any earlier time that the court deems proper.

(d) All discovery in the legal action is stayed upon the filing of a petition under this section. The stay of discovery remains in effect until the entry of an order ruling on the petition. The court may allow specified and limited discovery relevant to the petition upon a showing of good cause.

20-17-105. Burden of proof — Dismissal of legal action.

(a) The petitioning party has the burden of making a prima facie case that a legal action against the petitioning party is based on, relates to, or is in response to that party's exercise of the right to free speech, right to petition, or right of association.

(b) If the petitioning party meets this burden, the court shall dismiss the legal action unless the responding party establishes a prima facie case for each essential element of the claim in the legal action.

(c) Notwithstanding subsection (b), the court shall dismiss the legal action if the petitioning party establishes a valid defense to the claims in the legal action.

(d) The court may base its decision on supporting and opposing sworn affidavits stating admissible evidence upon which the liability or defense is based and on other admissible evidence presented by the parties.

(e) If the court dismisses a legal action pursuant to a petition filed under this chapter, the legal action or the challenged claim is dismissed with prejudice.

(f) If the court determines the responding party established a likelihood of prevailing on a claim:

(1) The fact that the court made that determination and the substance of the determination may not be admitted into evidence later in the case; and

(2) The determination does not affect the burden or standard of proof in the proceeding.

20-17-106. Appeal of order dismissing or refusing to dismiss legal action.

The court's order dismissing or refusing to dismiss a legal action pursuant to a petition filed under this chapter is immediately appealable as a matter of right to the court of appeals. The Tennessee Rules of Appellate Procedure applicable to appeals as a matter of right governs such appeals.

20-17-107. Award of court costs, attorney's fees, and other costs and expenses — Additional relief.

(a) If the court dismisses a legal action pursuant to a petition filed under this chapter, the court shall award to the petitioning party:

(1) Court costs, reasonable attorney's fees, discretionary costs, and other expenses incurred in filing and prevailing upon the petition; and

(2) Any additional relief, including sanctions, that the court determines necessary to deter repetition of the conduct by the party who brought the legal action or by others similarly situated.

(b) If the court finds that a petition filed under this chapter was frivolous or was filed solely for the purpose of unnecessary delay, and makes specific written findings and conclusions establishing such finding, the court may award to the responding party court costs and reasonable attorney's fees incurred in opposing the petition.

20-17-108. Effect of chapter.

Nothing in this chapter:

(1) Applies to an enforcement action that is brought in the name of the state or a political subdivision of this state by the attorney general, a district

attorney general, or a county or municipal attorney;

(2) Can result in findings or determinations that are admissible in evidence at any later stage of the underlying legal action or in any subsequent legal action;

(3) Affects or limits the authority of a court to award sanctions, costs, attorney's fees, or any other relief available under any other statute, court rule, or other authority;

(4) Affects, limits, or precludes the right of any party to assert any defense, remedy, immunity, or privilege otherwise authorized by law;

(5) Affects the substantive law governing any asserted claim;

(6) Creates a private right of action; or

(7) Creates any cause of action for any government entity, agency, or employee.

20-17-109. Intent of chapter.

This chapter is intended to provide an additional substantive remedy to protect the constitutional rights of parties and to supplement any remedies which are otherwise available to those parties under common law, statutory law, or constitutional law or under the Tennessee Rules of Civil Procedure.

20-17-110. Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of chapter 185 of the Public Acts of 2019 that can be given effect without the invalid provision or application, and to that end the provisions of chapter 185 of the Public Acts of 2019 are declared to be severable.

26-6-101. Short title.

This part may be cited as the "Uniform Enforcement of Foreign Judgments Act."

26-6-102. Construction for uniformity.

This part shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

26-6-103. "Foreign judgment" defined.

As used in this part, "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this state.

26-6-107. Creditor's right to bring enforcement action.

The right of a judgment creditor to bring an action to enforce the creditor's judgment instead of proceeding under this part remains unimpaired.

26-6-109. Applicability of part.

This part does not apply to judgments covered by the Uniform Foreign-Country Money Judgments Recognition Act, compiled in part 2 of this chapter.

26-6-201. Short title.

This part shall be known and may be cited as the “Uniform Foreign-Country Money Judgments Recognition Act.”

26-6-202. Part definitions.

As used in this part:

- (1) “Foreign country” means a government other than:
 - (A) The United States;
 - (B) A state, district, commonwealth, territory, or insular possession of the United States; or
 - (C) Any other government with regard to which the decision in this state as to whether to recognize a judgment of that government’s courts is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution; and
- (2) “Foreign-country judgment” means a judgment of a court of a foreign country.

26-6-203. Applicability.

- (a) Except as otherwise provided in subsection (b), this part applies to a foreign-country judgment to the extent that the judgment:
 - (1) Grants or denies recovery of a sum of money; and
 - (2) Under the law of the foreign country where rendered, is final, conclusive, and enforceable.
- (b) This part does not apply to a foreign-country judgment, even if the judgment grants or denies recovery of a sum of money, to the extent that the judgment is:
 - (1) A judgment for taxes;
 - (2) A fine or other penalty; or
 - (3) A judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.
- (c) A party seeking recognition of a foreign-country judgment has the burden of establishing that this part applies to the foreign-country judgment.

26-6-204. Standards for recognition of foreign-country judgment.

- (a) Except as otherwise provided in subsections (b) and (c), a court of this state shall recognize a foreign-country judgment to which this part applies.
- (b) A court of this state may not recognize a foreign-country judgment if:
 - (1) The judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;
 - (2) The foreign court did not have personal jurisdiction over the defendant; or
 - (3) The foreign court did not have jurisdiction over the subject matter.
- (c) A court of this state need not recognize a foreign-country judgment if:
 - (1) The defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend;
 - (2) The judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case;
 - (3) The judgment or the cause of action on which the judgment is based is

repugnant to the public policy of this state or of the United States;

(4) The judgment conflicts with another final and conclusive judgment;

(5) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court;

(6) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action;

(7) The judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment;

(8) The specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law; or

(9) The foreign jurisdiction where the judgment was rendered would not give recognition to a similar judgment rendered in this state.

(d) A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in subsection (b) or (c) exists.

26-6-205. Personal jurisdiction.

(a) A foreign-country judgment may not be refused recognition for lack of personal jurisdiction if:

(1) The defendant was served with process personally in the foreign country;

(2) The defendant voluntarily appeared in the proceeding, other than for the purpose of protecting property seized or threatened with seizure in the proceeding or of contesting the jurisdiction of the court over the defendant;

(3) The defendant, before the commencement of the proceeding, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(4) The defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had its principal place of business in, or was organized under the laws of, the foreign country;

(5) The defendant had a business office in the foreign country and the proceeding in the foreign court involved a cause of action arising out of business done by the defendant through that office in the foreign country; or

(6) The defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a cause of action arising out of that operation.

(b) The list of bases for personal jurisdiction in subsection (a) is not exclusive. The courts of this state may recognize bases of personal jurisdiction other than those listed in subsection (a) as sufficient to support a foreign-country judgment.

26-6-206. Procedure for recognition of foreign-country judgment.

(a) If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition must be raised by filing an action seeking recognition of the foreign-country judgment.

(b) If recognition of a foreign-country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim, or affirmative defense.

300

26-6-207. Effect of recognition of foreign-country judgment.

If the court in a proceeding under § 26-6-206 finds that the foreign-country judgment is entitled to recognition under this part, then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is:

- (1) Conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive; and
- (2) Enforceable in the same manner and to the same extent as a judgment rendered in this state.

26-6-208. Stay of proceedings pending appeal of foreign-country judgment.

If a party establishes that an appeal from a foreign-country judgment is pending or will be taken, the court may stay any proceedings with regard to the foreign-country judgment until the appeal is concluded, the time for appeal expires, or the appellant has had sufficient time to prosecute the appeal and has failed to do so.

26-6-209. Statute of limitations.

An action to recognize a foreign-country judgment must be commenced within the earlier of the time during which the foreign-country judgment is effective in the foreign country or ten (10) years from the date that the foreign-country judgment became effective in the foreign country.

26-6-210. Uniformity of interpretation.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

26-6-211. Savings clause.

This part does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment not within the scope of this part.

28-3-116. Action for injury or illness based on child sexual abuse.

(a) As used in this section, unless the context otherwise requires:

(1) “Child sexual abuse” means any act set out in § 37-1-602(a)(3), that occurred when the victim was a minor;

(2) “Discovery” means when the injured person becomes aware that the injury or illness was caused by child sexual abuse. Discovery that the injury or illness was caused by child sexual abuse shall not be deemed to have occurred solely by virtue of the injured person’s awareness, knowledge, or memory of the acts of abuse;

(3) “Injury or illness” means either a physical injury or illness or a psychological injury or illness; and

(4) “Minor” means a person under eighteen (18) years of age.

(b) Notwithstanding § 28-3-104, a civil action for an injury or illness based on child sexual abuse that occurred when the injured person was a minor must

be brought:

(1) For child sexual abuse that occurred before July 1, 2019, but was not discovered at the time of the abuse, within three (3) years from the time of discovery of the abuse by the injured person; or

(2) For child sexual abuse that occurred on or after July 1, 2019, within the later of:

(A) Fifteen (15) years from the date the person becomes eighteen (18) years of age; or

(B) If the injury or illness was not discovered at the time of the abuse, within three (3) years from the time of discovery of the abuse by the injured person.

(c) A person bringing an action under this section need not establish or prove:

(1) Which act in a series of continuing child sexual abuse incidents by the alleged perpetrator caused the injury or illness complained of, but may compute the date of discovery from the date of discovery of the last act by the same alleged perpetrator which is part of a common scheme or pattern of child sexual abuse; or

(2) That the injured person psychologically repressed the memory of the facts upon which the claim is predicated.

(d) In an action brought under this section, the knowledge of a parent or guardian shall not be imputed to a minor.

(e) If an action is brought against someone other than the alleged perpetrator of the child sexual abuse, and if the action is brought more than one (1) year from the date the injured person attains the age of majority, the injured person must offer admissible and credible evidence corroborating the claim of abuse by the alleged perpetrator.

29-3-110. Order of abatement.

(a) If, upon the trial, the existence of the nuisance is established under § 29-3-101(a)(2)(A), an order of abatement shall be entered as part of the judgment or decree of the court, which order shall direct the removal from the building or place where the nuisance exists or is maintained of all means, appliances, fixtures, appurtenances, materials, supplies and instrumentalities used for the purpose of conducting, maintaining or carrying on the unlawful business, occupation, game, practice or device constituting the nuisance; and shall direct the sale thereof, or such portion thereof as may be lawfully sold, upon such terms as the court may order, and the payment of the proceeds into court to be applied to costs or paid over to the owner, and the destruction of such portion thereof, if any, as cannot be lawfully sold within this state; and the judgment or decree shall perpetually enjoin the defendant from engaging in, conducting, continuing, or maintaining the nuisance, directly or indirectly, by the defendant or defendant's agents or representatives, and perpetually forbidding the owner of the building from permitting or suffering the nuisance to be done in the building.

(b)(1) Upon any hearing or trial, the establishment of a criminal gang as a nuisance under § 29-3-101(a)(2)(B) need only be proven by clear and convincing evidence, notwithstanding any references under this chapter to the criminal code. Neither a criminal conviction nor a finding of juvenile delinquency is required in order to prove, by clear and convincing evidence,

that particular conduct is gang related conduct to be abated as a nuisance under this chapter. Gang related conduct to be abated as a nuisance may be proven through the testimony of a fact witness, an expert witness, or a combined fact-expert witness pursuant to the rules of evidence.

(2) If, upon any hearing or trial, the existence of a gang related nuisance is established under § 29-3-101, an order of abatement shall be entered as part of the judgment or decree of the court. That order shall enjoin perpetually the defendant or defendants from engaging in, conducting, continuing, aiding or abetting the nuisance, directly or indirectly.

(3) In addition to the relief permitted in subdivision (b)(2), the court may designate a certain geographically defined area or areas in any temporary or permanent gang injunction, which are narrowly tailored in compliance with prevailing constitutional case law for one (1) or more of the following purposes:

(A) Preventing the gang from gathering in public in groups of two (2) or more members; and

(B) Preventing any gang member from entering any specific public park or parcel of property where the gang has been found to have carried out its operations.

(4) All gang injunctions shall also include an “opt out” provision permitting an individual to seek an order of dismissal from the injunction upon proper application to the court, with thirty (30) days’ notice to the petitioner, truthfully stating that the individual renounces involvement with that particular gang, which is the subject of the gang injunction, and for the last two (2) years:

(A) Has not committed any crimes or engaged in any form of criminal conduct, not including any time spent incarcerated;

(B) Has not been in the company, or association, of any person found under this chapter to be a gang member, other than an immediate family member; and

(C) Has not obtained any new gang related tattoos.

(c) In the order of abatement, the court may also assess costs of public services required to abate or manage the nuisance, including, but not limited to, law enforcement costs, if any, caused by the public nuisance. The governmental entity shall submit evidence of such costs to the court.

(d)(1) Any person who is not specifically named in a gang injunction issued pursuant to subsection (b) may be subject to the injunction by service upon the person of:

(A) A petition by the original petitioner to amend the injunction to specifically include the person; or

(B) A summons and a copy of the injunction.

(2) Service of the petition or summons shall include a date, time, and place of a hearing, where the original petitioner shall be required to show why the person should be subject to the injunction.

(3) A person who is added to the injunction under subdivision (d)(1) shall be subject to § 29-3-111 for any conduct occurring after the date the person is added to the injunction.

(4) A person who is added to the injunction under subdivision (d)(1) shall be afforded the same opt-out provisions under subdivision (b)(4).

(e) No later than April 1 of each year, the commissioner of safety, after consulting with the petitioners where gang injunctions permitted by this act

are in effect, shall submit a detailed, written report to the judiciary committee of the senate and the judiciary committee of the house of representatives regarding the implementation of chapter 865 of the Public Acts of 2014 and containing relevant data for the previous calendar year that shall include, but not be limited to:

- (1) The number of injunctions against criminal gangs in effect;
- (2) The number of persons charged with violating a gang injunction under Section 29-3-111(a);
- (3) The number of persons convicted for violating a gang injunction under Section 29-3-111(a); and
- (4) All criminal charges filed during the previous calendar year against persons specifically named in a gang injunction.

29-13-102. Chapter definitions.

As used in this chapter and § 40-24-107, unless the context otherwise requires:

- (1) “Child” means any individual, adopted or natural born, entitled to take as a child under the laws of this state by intestate succession from the parent whose relationship is involved and also includes a stepchild;
- (2) “Claimant” means any person or persons filing a claim for compensation under this chapter on such person’s or persons’ own behalf, the guardian of a victim if the victim is a minor, the legal representative of the estate of a deceased victim, or the dependents of the victim;
- (3) “Commission” means the Tennessee claims commission created pursuant to § 9-8-301;
- (4) “Court” means the circuit courts of the state of Tennessee, for the purposes of filing a claim, and any court of the state which has the jurisdiction to try a crime against person or property, for the purpose of assessing the costs provided for in § 40-24-107, except general sessions courts or municipal courts may not impose such costs;
- (5) “Dependents” means such relatives of a deceased victim as were receiving substantial support or needed services from the victim at the time of the victim’s death, and includes the child of such victim born after such victim’s death;
- (6) “Division” means the division of claims and risk management created pursuant to § 9-8-401;
- (7) “Family,” when used with reference to a person, includes:
 - (A) Any person related to such person within the third degree of consanguinity or affinity; or
 - (B) Any person living in the same household as such person;
- (8) “Guardian” or “legal guardian” means a person having the legal authority to provide for the care, supervision, and control of a minor child as established by law or court order;
- (9) “Minor” means any person who has not attained the age of eighteen (18) years;
- (10) “Offender” means a person who has or is alleged to have committed a crime;
- (11) “Out of pocket expenses” means unreimbursed or unreimbursable expenditures or indebtedness reasonably incurred for medical care or other services reasonably necessary as a result of the personal injury or death

upon which a claim is based;

(12) "Relative" means a spouse, parent, grandparent, stepparent, child, grandchild, brother, sister, half brother, half sister and a spouse's parents or stepparents; and

(13) "Victim" means a person who suffers personal injury or death as a direct and proximate result of any act of a person which is within the description of any of the offenses specified in § 29-13-104.

29-18-115. Method of serving summons.

(a)(1) In commencing an action under this chapter, summons may be served upon any adult person found in possession of the premises, which includes any adult person occupying the premises; and service of process upon such party in possession shall be good and sufficient to enable the landlord to regain possession of such landlord's property. In the event the summons cannot be served upon any adult person found in possession of the premises, personal service of process on the defendant is dispensed with in the following cases:

(A) When the defendant is a nonresident of this state;

(B) When, upon inquiry at the defendant's usual place of abode, the defendant cannot be found, so as to be served with process, and there is just ground to believe that the defendant has gone beyond the limits of the state;

(C) When the summons has been returned "not to be found in my county";

(D) When the name of the defendant is unknown and cannot be ascertained upon diligent inquiry;

(E) When the residence of the defendant is unknown and cannot be ascertained upon diligent inquiry; or

(F) When a domestic corporation has ceased to do business and has no known officers, directors, trustee, or other legal representatives, on whom personal service may be had.

(2) In those cases specified in subdivision (a)(1), where personal service of process on the defendant is dispensed with, the proceeding shall be governed by §§ 21-1-203 — 21-1-205, and in addition thereto, the plaintiff shall post or cause to be posted on the front door or other front portion of the premises a copy of the publication notice at least fifteen (15) days prior to the date specified therein for the defendant to appear and make a defense.

(3) In addition to the methods set out in subdivisions (a)(1) and (2), in commencing an action under this chapter, summons may be served upon a contractually named party, and service of process upon such party shall be good and sufficient to enable the landlord to regain possession of the landlord's property.

(b) In commencing an action under this chapter, service of process may be made by the plaintiff, the plaintiff's attorney, or the plaintiff's agent, in lieu of subsection (a), by lodging the original summons and a copy certified by the clerk with the sheriff or constable of the county in which suit is brought, who shall promptly send postage prepaid a certified copy by certified return receipt mail to the individual as follows:

(1) In the case of an individual defendant, to the party named;

(2) In the case of a domestic corporation or a foreign corporation doing business in this state, to an officer or managing agent thereof, or to the chief

agent in the county where the action is brought or to any other agent authorized by appointment or by law to receive service on behalf of the corporation; or

(3) In the case of a partnership or an unincorporated association which is a named defendant under a common name, to a partner or managing agent of the partnership or to an officer or managing agent of the association, or to an agent authorized by appointment or by law to receive service on behalf of the partnership or association.

(c) In any case in which such warrant or process is returned undelivered for any reason whatsoever, service of process shall then be made as otherwise provided by law.

(d)(1) The original process, endorsed as indicated below, an affidavit of the appropriate sheriff or constable setting forth the sheriff or constable's compliance with the requirements of the preceding provisions, and the return receipt signed by the defendant shall be attached together and sent to and filed by the clerk of the court of general sessions. There shall be endorsed on the original warrant by the sheriff or constable over the sheriff or constable's signature the date of the sheriff or constable's mailing the certified copy to the defendant; thereupon service of the defendant shall be consummated. An act of a deputy of the sheriff in the sheriff's behalf hereunder shall be deemed the equivalent of the act of the latter.

(2) When service of process by mail is made upon one (1) or more individual defendants, service of process shall not be complete as to any individual unless a return receipt, signed or acknowledged on its face by the individual personally, is returned to the deputy sheriff or constable.

(e)(1) In addition to the methods set out in this section, service of process for an action commenced under this chapter shall be good and sufficient to enable the landlord to regain possession of such landlord's property if a sheriff, sheriff's deputy, constable, or private process server personally serves a copy of the warrant or summons upon any one (1) named defendant who has a contractual or possessory property right in the subject premises.

(2) If, after attempting personal service of process on three (3) different dates and documenting such attempts on the face of the warrant, the sheriff, sheriff's deputy, constable, or private process server is unable to serve any such one (1) named defendant personally, service of process for determining the right of possession of the subject premises as to all who may have a contractual or possessory property right therein may be had by the sheriff, sheriff's deputy, constable, or private process server taking the following actions at least six (6) days prior to the date specified therein for the defendant or defendants to appear and make a defense:

(A) Posting a copy of the warrant or summons on the door of the premises;

(B) Sending by United States postal service first class mail a copy of the warrant or summons to the so named defendant or defendants at the address of the subject premises or the defendants' last known address, if any; and

(C) Making an entry of this action on the face of the warrant or summons filed in the action.

(3) Subdivision (e)(2) shall apply only to service of process to regain possession of real property, and shall not apply to service of process to recover monetary judgment.

29-20-408. Catastrophic injuries fund commission created.

(a) There is created a commission to design, develop and propose legislation to the general assembly to enact and implement a catastrophic injuries fund for the purpose of compensating certain specified persons in an amount in excess of the governmental tort liability limits for injuries or death caused by the actions of an employee of a governmental entity and to study other issues relating to governmental tort liability. Such commission shall consist of the following members:

- (1) Four (4) members to be appointed jointly by the speaker of the senate and speaker of the house of representatives from a list of eight (8) persons to be submitted jointly by the Tennessee municipal league, the Tennessee county services association, the Tennessee school board association, county-owned hospitals, self-insured municipalities, Tennessee public utilities and the Tennessee municipal league risk management pool by January 1, 2002;
- (2) Four (4) members to be appointed jointly by the speaker of the senate and speaker of the house of representatives from a list of eight (8) persons submitted by the Tennessee trial lawyers association by January 1, 2002;
- (3) The comptroller of the treasury or the comptroller's designee;
- (4) The state treasurer or the treasurer's designee;
- (5) The secretary of state or the secretary's designee; and
- (6) The chairs of the judiciary, state and local government and finance, ways and means committees of the senate and the judiciary, state government, and finance, ways and means committees of the house of representatives, or such chairs' designees, who shall be ex officio non-voting members of the commission.

(b) If the speakers are unable to appoint four (4) members from the list of eight (8) submitted pursuant to subsection (a)(1) or (a)(2), the speakers shall notify the association or entities submitting the initial list and they shall have no more than forty-five (45) days to submit a new list of eight (8) persons. The speakers may request no more than two (2) such additional lists in making the respective four (4) member appointments.

(c) If for any reason a vacancy occurs in the commission membership appointed pursuant to subdivision (a)(1) or (a)(2), the association or entities making the original appointment shall have no more than thirty (30) days to submit to the speakers a list of two (2) persons to fill each such vacancy. The speakers shall jointly appoint a member to fill the vacancy in the same manner as the initial appointment.

(d) The commission shall first convene at the call of the state treasurer who shall serve as chair and shall coordinate the work of the commission.

(e) The catastrophic injuries fund commission shall design, develop and propose legislation to the general assembly to enact and implement the catastrophic injuries fund by July 1, 2006. The commission may report on and propose legislation, if necessary, on other issues related to governmental tort liability at any time, but no later than July 1, 2006.

29-34-106. Provision of settlement agreement prohibiting disclosure of identities of persons relating to claim void and unenforceable.

(a) Notwithstanding any law to the contrary, any provision of a settlement agreement entered into by a governmental entity that has the effect of

prohibiting the disclosure of the identities of persons relating to a claim by any of the parties is void and unenforceable as contrary to the public policy of this state; except that identifying information concerning a person who is a victim of sexual harassment or an offense under title 39, chapter 13, part 5; title 39, chapter 17, part 10; § 39-13-111; § 39-13-605; § 39-15-302; § 39-15-401; or § 39-15-402 is confidential until such person authorizes the disclosure of the information.

(b) For purposes of this section, “governmental entity” means any lawfully established department, agency, or entity of this state or any political subdivision of this state.

29-34-211. Liability for unlicensed psychotherapy treatment of mental health disorder — Exemptions.

(a) For the purposes of this section:

(1) “Mental health disorder” means a serious psychological condition, including, but not limited to, major depressive disorder, anxiety disorder, psychosis, bipolar disorder, personality disorder, and post-traumatic stress disorder, or any disorder found in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders; and

(2) “Psychotherapy” means an intervention for a mental health disorder by a licensed mental health professional.

(b)(1) A consumer is entitled to care from a competently qualified person when receiving care for a mental health disorder.

(2) A license is required under title 63 for a person to competently treat a mental health disorder. An unlicensed person is not competent to provide services that fall within any scope of practice for which a license is required under title 63 for treatment of a mental health disorder, and such treatment is illegal.

(c)(1) An unlicensed person may be civilly liable to the client if the unlicensed person knowingly offered psychotherapy services to treat a mental health disorder without being licensed as a mental health provider.

(2) The client may maintain an action to recover damages for the unlicensed psychotherapy treatment of a mental health disorder, including consideration paid to the unlicensed person, costs in recovering consideration paid, and reasonable attorney’s fees as determined by the court.

(d) The following persons are exempt from this section:

(1) Clergy who are not being compensated on a fee-for-service basis;

(2) Students and practitioners in training when the student or practitioner is under the lawful supervision of a licensed healthcare professional;

(3) Persons holding a license under title 63 when acting within the lawful scope of practice;

(4) An unlicensed person operating under the supervision of a person holding a license under title 63, providing counseling or therapy services in a correctional facility;

(5) Any service provider at a homeless shelter, licensed behavioral health residential facility, hospital, or any state-operated agency or facility;

(6) State-contracted mobile crisis responders;

(7) An unlicensed person operating under the supervision of a person holding a license under title 63 providing counseling or therapy services in a community mental health center; and

(8) Any person providing peer counseling or social services not on a fee-for-service basis.

(e) This section does not expand or restrict the scope of practice for any person holding a license under title 63.

30-1-111. Oath of representative.

The clerk shall, before delivering the letters of administration or letters testamentary to the personal representative, administer to the representative, if an executor, an oath for performing the will of the deceased; and, if an administrator, an oath for the faithful performance of the administrator's duty; and, as to both, an oath that all statements in the petition about the representative are true and accurate and the representative is not disqualified from serving because of having been sentenced to imprisonment in a penitentiary as set forth in § 40-20-115 or otherwise. In the alternative, the oaths of the administrator or executor may be sworn or affirmed in the presence of a notary public and the acknowledgment of the representative's oaths, when certified by the notary public, shall be presented to the appropriate clerk.

30-1-117. Petition and documents required to be filed with application for letters.

(a) To apply for letters of administration or letters testamentary to administer the estate of a decedent, a verified petition containing the following information and documents shall be filed with the court:

- (1) The identity of the petitioner;
- (2) The decedent's name, age, if known, date and place of death, and residence at time of death;
- (3) In case of intestacy, the name, age, if known, mailing address and relationship of each heir at law of the decedent;
- (4) A statement that the decedent died intestate or the date of execution, if known, and the names of all attesting witnesses of the document or documents offered for probate;
- (5) The document or documents offered for probate, or a copy thereof, as an exhibit to the petition;
- (6) The names and relationships of the devisees and legatees and the city of residence of each if known, similar information for those who otherwise would be entitled to the decedent's property under the statutes of intestate succession, and the identification of any minor or other person under disability;
- (7) An estimate of the fair market value of the estate to be administered, unless bond is waived by the document offered for probate or is waived as authorized by statute;
- (8) If there is a document, whether the document offered for probate waives the filing of any inventory and accounting or whether such is not otherwise required by law;
- (9) If there is a document, a statement that the petitioner is not aware of any instrument revoking the document being offered for probate, if that is the case, and that the petitioner believes that the document being offered for probate is the decedent's last will; and

(10) The name, age, mailing address, relationship of the proposed personal representative to the decedent, a statement of any felony or misdemeanor convictions, and a statement of any sentence of imprisonment in a

penitentiary.

(b) No notice of the probate proceeding shall be required except for probate in solemn form, which shall require due notice in the manner provided by law to all persons interested.

31-1-103. [Repealed.]

31-1-106. Effect of felonious and intentional killing of decedent.

(a) For purposes of this section:

(1) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument;

(2) "Felonious and intentional killing" or "feloniously and intentionally kills" includes the felonious and intentional act of conspiring with another to kill or procure the killing of an individual decedent;

(3) "Governing instrument" means a governing instrument executed by the decedent; and

(4) "Revocable," with respect to a disposition, appointment, provision, or nomination, means one under which the decedent, at the time of or immediately before death, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the killer, whether or not the decedent was then empowered to designate the decedent in place of the decedent's killer and whether or not the decedent then had capacity to exercise the power.

(b) An individual who feloniously and intentionally kills the decedent forfeits all benefits with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, a homestead allowance, exempt property, and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as if the killer predeceased the decedent.

(c) The felonious and intentional killing of the decedent:

(1) Revokes any revocable:

(A) Disposition or appointment of property made by the decedent to the killer in a governing instrument;

(B) Provision in a governing instrument conferring a general or nongeneral power of appointment on the killer; and

(C) Nomination of the killer in a governing instrument to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, or agent;

(2) Severs the interests of the decedent and killer in property held by the decedent and the killer at the time of the killing as joint tenants with the right of survivorship or as community property with the right of survivorship, transforming the interests of the decedent and killer into equal tenancies in common; and

(3) Eliminates any right the perpetrator of the killing otherwise has to file or maintain an action for wrongful death arising out of the death of the decedent or to share in any portion of the proceeds of any wrongful death settlement or judgment resulting from a wrongful death lawsuit.

(d) A severance under subdivision (c)(2) does not affect a third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship of the killer, unless a writing declaring the severance has been

noted, registered, filed, or recorded in records that are:

- (1) Appropriate to the kind and location of the property;
- (2) In the ordinary course of transactions involving the property; and
- (3) Recorded as evidence of ownership.

(e) Provisions of a governing instrument are to be given effect as if the killer disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the killer predeceased the decedent.

(f) A wrongful acquisition of property or interest by a killer not covered by this section must be treated in accordance with the principle that a killer cannot profit from the killer's wrong.

(g) A judgment of conviction establishing criminal accountability for the felonious and intentional killing of the decedent is conclusive evidence that the individual is the decedent's killer for purposes of this section.

(h)(1)(A) Before the payor or other third party receives written notice of a claimed forfeiture or revocation under this section, the payor or other third party is not liable for having:

- (i) Made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by an intentional and felonious killing; or
- (ii) Taken any other action in good faith reliance on the validity of the governing instrument, upon request and satisfactory proof of the decedent's death.

(B) A payor or other third party is liable for a payment made or action taken after the payor or other third party received written notice sent pursuant to subdivision (h)(2)(A) of a claimed forfeiture or revocation under this section.

(2)(A) Written notice of a claimed forfeiture or revocation under subdivision (h)(1) must be mailed to the payor's or other third party's main office or home by either:

- (i) Registered or certified mail, return receipt requested; or
- (ii) Served upon the payor or other third party in the same manner as a summons in a civil action.

(B) Upon receipt of written notice of a claimed forfeiture or revocation under this section, a payor or other third party may pay any amount owed or transfer or deposit any item or property held by the payor to or with the court having jurisdiction of the probate proceeding relating to the decedent's estate, or if no proceedings have been commenced, to or with the court having jurisdiction of the probate proceeding relating to decedents' estates in the county of the decedent's residence.

(C) The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement in accordance with the court's determination.

(D) Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(i)(1)(A) Except as otherwise provided in subdivision (i)(2), a person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally

enforceable obligation, is not obligated under this section to return the payment, item of property, or benefit, and is not liable under this section for the amount of the payment or the value of the item of property or benefit.

(B) A person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment or the value of the item of property or benefit to the person who is entitled to it under this section.

(2) If this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it as if this section was not preempted.

31-7-101. Short Title.

This chapter shall be known and may be cited as the “Tennessee Disclaimer of Property Interests Act.”

31-7-102. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Disclaimant” means the person to whom a disclaimed interest or power would have passed had the disclaimer not been made;

(2) “Disclaimed interest” means the interest that would have passed to the disclaimant had the disclaimer not been made;

(3) “Disclaimer” means the refusal to accept an interest in or power over property;

(4) “Fiduciary” means a personal representative, trustee, agent acting under a power of attorney, or other person authorized to act as a fiduciary with respect to the property of another person;

(5) “Jointly held property” means property held in the name of two (2) or more persons under an arrangement in which all holders have concurrent interests and under which the last surviving holder is entitled to the whole of the property;

(6) “Person” means an individual; fiduciary; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government, governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity;

(7) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. “State” includes an Indian tribe or band, or Alaskan native village, recognized by federal law or formally acknowledged by a state; and

(8) “Trust” means:

(A) An express trust, charitable or noncharitable, with additions thereto, whenever and however created; and

(B) A trust created pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an express trust.

312

31-7-103. Scope.

This chapter applies to disclaimers of any interest in or power over property, whenever created.

31-7-104. Disclaimer Act supplement by other law.

(a) Unless displaced by this chapter, the principles of law and equity supplement this chapter.

(b) This chapter does not limit any right of a person to waive, release, disclaim, or renounce an interest in or power over property under a law other than this chapter.

31-7-105. Power to disclaim — General requirements — When irrevocable.

(a) A person may disclaim, in whole or part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

(b) Except to the extent a fiduciary's right to disclaim is expressly restricted or limited by state law or by the instrument creating the fiduciary relationship, a fiduciary may disclaim, in whole or part, any interest in or power over property, including a power of appointment, whether acting in a personal or representative capacity. A fiduciary may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim, or an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

(c) To be effective, the disclaimer must:

- (1) Be in writing;
- (2) Declare the disclaimer, and the extent thereof;
- (3) Describe the interest or power disclaimed; and
- (4) Be signed either by:

(A) The person making the disclaimer; or

(B) Some person subscribing the name of the person making the disclaimer, in the person's presence and by such person's express direction in the presence of two (2) or more witnesses competent to witness a will under title 32.

(d) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property.

(e) A disclaimer becomes irrevocable when it is delivered or filed pursuant to § 31-7-112 or when it becomes effective as provided in §§ 31-7-106 — 31-7-111, whichever occurs later.

31-7-106. Disclaimer of interests in property.

(a) As used in this section:

(1) "Future interest" means an interest that takes effect in possession or enjoyment, if at all, later than the time of its creation; and

(2) "Time of distribution" means the time when a disclaimed interest would have taken effect in possession or enjoyment.

(b) Except for a disclaimer governed by § 31-7-107 or § 31-7-108, the

following rules apply to a disclaimer of an interest in property:

(1) The disclaimer takes effect as of the time the instrument creating the interest becomes irrevocable, or, if the interest arose under the law of intestate succession, as of the time of the intestate's death;

(2) The disclaimed interest passes according to any provision in the instrument creating the interest providing for the disposition of the interest, should it be disclaimed, or of disclaimed interests in general;

(3) If the instrument does not contain a provision described in subdivision (b)(2), the following rules apply:

(A) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist;

(B) If the disclaimant is an individual, except as otherwise provided in subdivisions (3)(C) and (3)(D), the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution;

(C) If by law or under the instrument, the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died immediately before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive the time of distribution; and

(D) If the disclaimed interest would pass to the disclaimant's estate had the disclaimant died before the time of distribution, the disclaimed interest instead passes per stirpes to the descendants of the disclaimant who survive the time of distribution. If no descendant of the disclaimant survives the time of distribution, the disclaimed interest passes to those persons, including the state but excluding the disclaimant, and in such shares as would succeed to the transferor's intestate estate under the intestate succession law of the transferor's domicile had the transferor died at the time of distribution; and

(4) Upon the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution, but a future interest held by the disclaimant is not accelerated in possession or enjoyment.

31-7-107. Disclaimer of rights of survivorship in jointly held property.

(a) Upon the death of a holder of jointly held property, a surviving holder may disclaim, in whole or part, the greater of:

(1) A fractional share of the property determined by dividing the number one (1) by the number of joint holders alive immediately before the death of the holder to whose death the disclaimer relates; or

(2) All of the property except that part of the value of the entire interest attributable to the contribution furnished by the disclaimant.

(b) A disclaimer under subsection (a) takes effect as of the death of the holder of jointly held property to whose death the disclaimer relates.

(c) An interest in jointly held property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates.

31-7-108. Disclaimer of interest by trustee.

If a trustee disclaims an interest in property that otherwise would have become trust property, the interest does not become trust property.

31-7-109. Disclaimer of power of appointment not held in a fiduciary capacity or other power not held in a fiduciary capacity.

If a holder disclaims a power of appointment not held in a fiduciary capacity or other power not held in a fiduciary capacity, the following rules apply:

- (1) If the holder has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable;
- (2) If the holder has exercised the power and the disclaimer is of a power other than a presently exercisable general power of appointment, the disclaimer takes effect immediately after the last exercise of the power; and
- (3) The instrument creating the power is construed as if the power expired when the disclaimer became effective.

31-7-110. Disclaimer by appointee, object, or taker in default of exercise of power of appointment.

(a) A disclaimer of an interest in property by an appointee of a power of appointment takes effect as of the time the instrument by which the holder exercises the power becomes irrevocable.

(b) A disclaimer of an interest in property by a permissible appointee or taker in default of an exercise of a power of appointment takes effect as of the time the instrument creating the power becomes irrevocable.

31-7-111. Disclaimer of power held in fiduciary capacity.

(a) If a fiduciary disclaims a power held in a fiduciary capacity which has not been exercised, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(b) If a fiduciary disclaims a power held in a fiduciary capacity which has been exercised, the disclaimer takes effect immediately after the last exercise of the power.

(c) A disclaimer under this section is effective as to another fiduciary if the disclaimer so provides and the fiduciary disclaiming has the authority to bind the estate, trust, or other person for whom the fiduciary is acting.

31-7-112. Delivery or filing.

(a) As used in this section, “beneficiary designation” means an instrument, other than an instrument creating a trust, naming the beneficiary of:

- (1) An annuity or insurance policy;
- (2) An account with a designation for payment on death;
- (3) A security registered in beneficiary form;
- (4) A pension, profit-sharing, retirement, or other employment-related benefit plan; or
- (5) Any other nonprobate transfer at death.

(b) Subject to subdivision (c)(1), delivery of a disclaimer may be affected by personal delivery, first-class mail, or any other method likely to result in its receipt.

(c) In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

- (1) A disclaimer must be delivered to the personal representative of the decedent’s estate; or
- (2) If no personal representative is then serving, the disclaimer must be

filed with a court having jurisdiction to appoint the personal representative.

(d) In the case of an interest in a testamentary trust:

(1) A disclaimer must be delivered to the trustee then serving;

(2) If no trustee is then serving, the disclaimer must be delivered to the personal representative of the decedent's estate; or

(3) If no trustee is then serving and no personal representative is then serving, the disclaimer must be filed with a court having jurisdiction to enforce the trust.

(e) In the case of an interest in an inter vivos trust:

(1) A disclaimer must be delivered to the trustee then serving;

(2) If no trustee is then serving, the disclaimer must be filed with a court having jurisdiction to enforce the trust; or

(3) If the disclaimer is made before the time the instrument creating the trust becomes irrevocable, the disclaimer must be delivered to the settlor of a revocable trust or the transferor of the interest.

(f) In the case of an interest created by a beneficiary designation that is disclaimed before the designation becomes irrevocable, the disclaimer must be delivered to the person making the beneficiary designation.

(g) In the case of an interest created by a beneficiary designation which is disclaimed after the designation becomes irrevocable:

(1) The disclaimer of an interest in personal property must be delivered to the person obligated to distribute the interest; and

(2) The disclaimer of an interest in real property must be recorded in the office of the county register's office of the county where the real property that is the subject of the disclaimer is located.

(h) In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes.

(i) In the case of a disclaimer by an object or taker in default of exercise of a power of appointment at any time after the power was created, the disclaimer must be delivered to:

(1) The holder of the power; and

(2) The fiduciary acting under the instrument that created the power; provided, however, if no fiduciary is then serving, the disclaimer must be filed with a court having authority to appoint the fiduciary.

(j) In the case of a disclaimer by an appointee of a nonfiduciary power of appointment, the disclaimer must be delivered to:

(1) The holder or personal representative of the holder's estate; and

(2) The fiduciary under the instrument that created the power; provided, however, that if no fiduciary is then serving, the disclaimer must be filed with a court having authority to appoint the fiduciary.

(k) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in subsection (c), (d), or (e), as if the power disclaimed were an interest in property.

(l) In the case of a disclaimer of a power by an agent, the disclaimer must be delivered to the principal or the principal's representative.

31-7-113. When disclaimer barred or limited.

(a) A disclaimer is barred by a written waiver of the right to disclaim.

(b) A disclaimer of an interest in property is barred if any of the following

316

events occur before the disclaimer becomes effective:

- (1) The disclaimant accepts the interest sought to be disclaimed;
 - (2) The disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed or contracts to do so; or
 - (3) A judicial sale of the interest sought to be disclaimed occurs.
- (c) A disclaimer, in whole or part, of the future exercise of a power held in a fiduciary capacity is not barred by its previous exercise.
- (d) Unless the power is exercisable in favor of the disclaimant, a disclaimer, in whole or part, of the future exercise of a power not held in a fiduciary capacity is not barred by its previous exercise.
- (e) A disclaimer is barred or limited if so provided by law other than this chapter.
- (f) A disclaimer of a power over property which is barred by this section is ineffective. A disclaimer of an interest in property which is barred by this section takes effect as a transfer of the interest disclaimed to the persons who would have taken the interest under this chapter had the disclaimer not been barred.

31-7-114. Tax qualified customer.

(a) Notwithstanding this chapter, if as a result of a disclaimer or transfer the disclaimed or transferred interest is treated pursuant to title 26 of the United States code, as now or hereafter amended, or any successor statute thereto, and the regulations promulgated thereunder, as never having been transferred to the disclaimant, then the disclaimer or transfer is effective as a disclaimer under this chapter.

(b) Tax qualified disclaimers must comply with the rules set forth in 26 U.S.C. § 2518, as now or hereafter amended, or any successor statute thereto, and the regulations promulgated thereunder, including the nine-month time limitation set forth under 26 U.S.C. § 2518(b)(2).

31-7-115. Recording of disclaimer.

If an instrument transferring an interest in or power over property subject to a disclaimer is required or permitted by law to be filed, recorded, or registered, the disclaimer may be so filed, recorded, or registered. Except as otherwise provided in § 31-7-112(g)(2), failure to file, record, or register the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

31-7-116. Application to existing relationships.

Except as otherwise provided in § 31-7-113, an interest in or power over property existing on May 10, 2019 as to which the time for delivering or filing a disclaimer under law superseded by this chapter has not expired may be disclaimed after May 10, 2019.

31-7-117. Severability clause.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable.

32-2-102. Original will — Where kept — Transfer of will — Record of transfer.

(a) Except when a will is before the court awaiting the determination of any controversy, an original will must remain in the clerk's office of the county where the will is proved or exhibited, or other suitable facility as provided in subsection (b), and any person may have access to it, as to other records.

(b)(1) The clerk may transfer, as provided in subdivision (b)(2), all original wills in the clerk's possession for which at least three (3) years have elapsed since final settlement of the estate or final disposition of all actions involving the will.

(2) A will transferred pursuant to subdivision (b)(1) must be transferred to a county archive facility or any other suitable facility that:

(A) Stores local government records;

(B) Is secure from theft and natural disasters; and

(C) Has been approved by the judge of the respective court and the county public records commission.

(c) For the purposes of subsection (b), "final disposition" means that judgment has been entered and the appeal times have lapsed for all parties.

(d) The clerk of the court shall keep a record of each will that is transferred pursuant to subsection (b). The record must indicate the name of the testator, the date of transfer, and the location to which the will was transferred.

33-2-402. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Abuse" means the knowing infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish;

(2) "Alcohol and drug prevention and/or treatment facility" means an institution, treatment resource, group residence (boarding home, sheltered workshop, activity center), rehabilitation center, hospital, community mental health center, nonresidential office-based opiate treatment facility, nonresidential substitution-based treatment center for opiate addiction, DUI school, counseling center, clinic, halfway house, or other entity, by these or other names, providing alcohol and drug services; provided, that a DUI school operated by a state institution of higher education shall not be considered an alcohol and drug treatment facility for purposes of this chapter; provided, further, that "alcohol and drug prevention and treatment facility" does not include any facility otherwise licensed by the department or the department of health or approved by the department of education;

(3) "Alcohol and drug services" includes evaluation, treatment, residential personal care, habilitation, rehabilitation, counseling or supervision of persons who abuse or are dependent upon alcohol or drugs, or services to persons designed to prevent alcohol or drug abuse or dependence that either receive funds from the department of health or assess fees for services provided; provided, that a DUI school operated by a state institution of higher education shall not be considered alcohol and drug services for purposes of this part;

(4) "Commissioner" means the commissioner of mental health and substance abuse services, or, when applicable, the commissioner of intellectual and developmental disabilities, the commissioner's authorized representa-

tive, or in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner of mental health and substance abuse services, or, when applicable, the deputy commissioner of intellectual and developmental disabilities;

(5) "Consumer direction" means a model of service delivery for certain medicaid home and community-based services in which the person receiving the services, family member, or other representative employs and supervises the individual who provides the services;

(6) "Department" means the department of mental health and substance abuse services, or, when applicable, the department of intellectual and developmental disabilities;

(7) "Facility" means a developmental center, treatment resource, group residence, boarding home, sheltered workshop, activity center, rehabilitation center, hospital, community mental health center, counseling center, clinic, group home, halfway house or any other entity that provides a mental health, intellectual or developmental disability service or an alcohol and drug abuse prevention and/or treatment facility;

(8) "Licensee" means a proprietorship, a partnership, an association, a governmental agency, or corporation, that operates a facility or a service and has obtained a license under this part;

(9) "Misappropriation of property" means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of belongings or money without consent;

(10) "Neglect" means failure to provide goods or services necessary to avoid physical harm, mental anguish, or mental illness, which results in injury or probable risk of serious harm;

(11)(A) "Nonresidential office-based opiate treatment facility" includes, but is not limited to, stand-alone clinics, treatment resources, individual physical locations occupied as the professional practice of a prescriber or prescribers licensed pursuant to title 63, or other entities prescribing products containing buprenorphine, or products containing any other controlled substance designed to treat opiate addiction by preventing symptoms of withdrawal to twenty-five percent (25%) or more of its patients or to one hundred fifty (150) or more patients;

(B) For the purposes of subdivision (11)(A), "physical location" means real property on which is located a physical structure, whether or not that structure is attached to real property, containing one (1) or more units and includes an individual apartment, office, condominium, cooperative unit, mobile or manufactured home, or trailer, if used as a site for prescribing or dispensing products containing buprenorphine, or products containing any other controlled substance designed to treat opiate addiction by preventing symptoms of withdrawal;

(C) "Nonresidential office-based opiate treatment facility" does not include any facility that meets the definition of a nonresidential substitution-based treatment center for opiate addiction;

(12) "Nonresidential substitution-based treatment center for opiate addiction" or "nonresidential opioid treatment program" includes, but is not limited to, stand-alone clinics offering methadone, products containing buprenorphine such as Subutex and Suboxone, or products containing any other formulation designed to treat opiate addiction by preventing symptoms of withdrawal;

(13) “Personal support services” means nursing consultation, education services, and other personal assistance services as defined by rule, which are provided to individuals with substantial limitation in two (2) or more major life activities in either their regular or temporary residences, but does not mean direct nursing services provided in connection with an acute episode of illness or injury;

(14) “Reputable and responsible character” means that the applicant or licensee can be trusted with responsibility for persons who are particularly vulnerable to abuse, neglect, and financial or sexual exploitation; and

(15) “Service” includes any activity to prevent, treat, or ameliorate mental illness, serious emotional disturbance, alcohol and drug use, intellectual or developmental disabilities, which includes diagnosis, evaluation, residential assistance, training, habilitation, rehabilitation, prevention, treatment, counseling, case coordination, or supervision of persons with mental illness, alcohol and drug abuse issues, serious emotional disturbances, and intellectual or developmental disabilities.

33-2-403. Licensure of mental health, substance abuse, and intellectual and developmental disabilities services and facilities — Exemptions — Rules.

(a) The departments have the authority to license services and facilities operated for the provision of mental health services, alcohol and drug abuse prevention or treatment, for the provision of services for intellectual and developmental disabilities, and for personal support services. The department of mental health and substance abuse services shall license services and facilities operated for persons with mental illness or serious emotional disturbance or in need of alcohol and drug abuse prevention or treatment services. Subject to subsection (c), the department of mental health and substance abuse services shall also license personal support services for the aged as well as persons with mental illness. Subject to subsection (c), services and facilities operated for persons with intellectual or developmental disabilities and personal support services for persons with intellectual or developmental disabilities shall be licensed by the department of intellectual and developmental disabilities. A personal support services agency licensed by either department may also serve individuals with physical or other disabilities. Notwithstanding any references in this part to the licensing of “facilities” or “services,” only persons, proprietorships, partnerships, associations, governmental agencies, or corporations may be listed on license applications or licenses as the licensed entity.

(b) The following are exempt from licensing under this part:

(1) Private practitioners who are authorized to practice by the boards of healing arts and only in private practice in that capacity. This subdivision (b)(1) shall not apply to a private practitioner, prescriber, or prescribers operating a nonresidential office-based opiate treatment facility, as defined in § 33-2-402;

(2) A person providing personal care solely to one (1) person with mental illness, serious emotional disturbance or developmental disability, or other service recipient receiving personal support services and not in a business arrangement with any other service recipient. This exception shall not apply to an individual who holds out to the public as being in the business of

personal support services for compensation;

(3) An individual providing service or support only to members of the person's own family or relatives;

(4) An individual providing service or support that is not subject to licensing under any other title of the code and doing so only on a part-time basis as defined in department rules;

(5) Foster homes that accept placements only from agencies of state government or licensed child-placing agencies;

(6) Services or facilities providing employee assistance programs;

(7) Services or facilities providing only employment placement;

(8) Facilities that are appropriately licensed by the department of health as a:

(A) Hospital whose primary purpose is not the provision of mental health or developmental disabilities services; or

(B) Satellite hospital, as defined by rules of the department of health, whose primary purpose is the provision of mental health or developmental disabilities services, and that the department verifies to the department of health as satisfying standards under this chapter;

(9) Facilities that are operated by state, county, or municipal departments of education, the department of correction, the department of human services, or the department of children's services and that affirmatively state that the primary purpose of the facility is other than the provision of mental health, alcohol and drug abuse prevention and/or treatment services or intellectual or developmental disabilities services; and

(10) A person providing direct care services to no more than three (3) people receiving services through consumer direction in a medicaid home- and community-based services program. This subdivision (b)(10) does not apply to an individual who holds out to the public as being in the business of providing personal support services for compensation.

(c)(1) A service or facility that can demonstrate compliance with rules and standards by a current personal support services license from another state agency is considered in compliance with rules and standards under this part so that duplicate licensing is not necessary. Personal support services agencies that provide services for the aged or persons with mental illness and persons with intellectual or developmental disabilities shall not be required to obtain a license from both departments. The departments shall work together to ensure that licensure standards for personal support services agencies are appropriate across all of the populations that may be served and are consistently applied.

(2) The licensing entity shall be determined based on the larger population served by the agency as of April 10, 2015, or in the case of new applicants for licensure, the larger population anticipated to be served by the agency at the time of licensure application.

(d)(1) The department shall appoint a review panel to review periodically all exclusions and waivers granted under the licensure law and perform other duties under this part. The department's legal counsel shall advise the panel.

(2) The panel's membership shall be:

(A) The commissioner or the commissioner's designee;

(B) For the mental health panel, a representative of licensed community mental health services and a representative of licensed alcohol and

drug abuse prevention and/or treatment services;

(C) For the intellectual and developmental disabilities panel, a representative of licensed intellectual disability community services and a representative of licensed developmental disability community services;

(D) For the mental health panel, a representative of a licensed residential facility for persons with mental illness or serious emotional disturbance and a representative of a licensed residential facility for alcohol and drug abuse prevention and/or treatment services;

(E) For the intellectual and developmental disabilities panel, a representative of a licensed residential facility for persons with intellectual and developmental disabilities;

(F) For the mental health panel, a representative of a licensed residential mental health facility for children and youth;

(G) Five (5) service recipient representatives; and

(H) A representative of a personal support services agency.

(3) The panel shall elect a chair and vice chair and shall report any findings directly to the commissioner.

(4) The vote of a majority binds the panel.

(5) Travel expenses for panel members shall be reimbursed. All reimbursement for travel expenses shall be in conformity with the comprehensive state travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(e) The license holder of a nonresidential office-based opiate treatment facility shall ensure that adequate billing records are maintained, in any format, onsite at the nonresidential office-based opiate treatment facility and shall ensure that adequate billing records are maintained for all patients and for all patient visits. Billing records shall be maintained for a period of three (3) years from the date of the patient's last treatment at the nonresidential office-based opiate treatment facility. Billing records shall be made for all methods of payment. Billing records shall be made available to the department upon request. Billing records shall include, but not be limited to, the following:

- (1) The amount paid for services;
- (2) Method of payment;
- (3) Date of the delivery of services;
- (4) Date of payment; and
- (5) Description of services.

(f) The license holder of a nonresidential office-based opiate treatment facility shall ensure that records of all bank deposits of cash payments for services provided at the nonresidential office-based opiate treatment facility are maintained, in any format, at the nonresidential office-based opiate treatment facility for a period of three (3) years.

(g) The license holder of a nonresidential office-based opiate treatment facility shall ensure that patient medical records are maintained, in any format, for a period of ten (10) years from the date of the patient's last treatment at the facility.

(h) By January 1, 2019, the commissioner of mental health and substance abuse services shall revise rules for nonresidential office-based opiate treatment facilities to be consistent with state and federal law and to establish:

- (1) Standards for determining what constitutes a high dose of the opioid employed in treatment at a nonresidential office-based opiate treatment facility;

(2) Protocols for initiating or switching a patient at a nonresidential office-based treatment facility to a high dose of the opioids employed in treatment; and

(3) Protocols for initiating periodic prescriber-initiated-and-led discussions with patients regarding patient readiness to taper down or taper off the opioids employed in treatment.

(i) The commissioner is authorized to use emergency rulemaking under § 4-5-208 to promulgate the rules pursuant to subsection (h). The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(j)(1) Beginning in 2020, the commissioner of mental health and substance abuse services shall review the rules for nonresidential office-based opiate treatment facilities by September 30 of each even-numbered year.

(2) The commissioner of mental health and substance abuse services shall submit the rules for nonresidential office-based opiate treatment facilities to each health-related board that licenses any practitioner authorized by the state to prescribe the products for the treatment of an opioid use disorder as defined in the Diagnostic and Statistical Manual of Mental Disorders and to the board of pharmacy.

(3)(A) Each board shall review the rules and enforce the rules with respect to that board's licensees.

(B) When a board's licensees are subject to the rules for nonresidential office-based opiate treatment facilities, the definition of "enforce" for purposes of this subdivision (j)(3) means referring any complaints or information regarding those licensees to the department.

(4) Each board shall post the rules on the licensing board's website.

(k)(1) The commissioner of mental health and substance abuse services shall provide a copy of any emergency rule developed pursuant to subsection (h) or (i) and any revision to a rule developed pursuant to subsection (j) to the chairs of the health committee of the house of representatives and the health and welfare committee of the senate at the same time the rules are submitted to the licensing boards pursuant to subdivision (j)(2).

(2) The commissioner of mental health and substance abuse services shall provide a copy of any rule developed pursuant to subsection (h) or (j) and any revision to a rule developed pursuant to subsection (j) to the chairs of the health committee of the house of representatives and the health and welfare committee of the senate at the same time the text of the rule is made available to the government operations committees of the senate and the house of representatives for purposes of conducting the review required by § 4-5-226 in order for the health committee of the house of representatives and the health and welfare committee of the senate to be afforded the opportunity to comment on the rule.

(l) A violation of a rule described in subsections (h) and (j) is grounds for disciplinary action against a practitioner licensed under title 63 by the board that licensed that practitioner.

33-3-115. Information to be collected and reported to the federal bureau of investigation-NICS index and the department of safety by any clerk of court that maintains records of an adjudication as a mental defective or a judicial commitment to a mental institution.

(a) Any clerk of court that maintains records of an adjudication as a mental defective or a judicial commitment to a mental institution pursuant to chapter 6 or chapter 7 shall, in accordance with the procedures outlined in title 16, disclose the following information set out in subsection (b) solely for the purposes of complying with §§ 39-17-1316, 39-17-1351, 39-17-1352, 16-1-117(a)(6) and the NICS Improvement Amendments Act of 2007, Public Law 110-180.

(b) The following information shall be collected and reported to the federal bureau of investigation-NICS Index, and the department of safety, pursuant to this subsection (b):

(1) Complete name and all aliases of the individual judicially committed or adjudicated as a mental defective, including, but not limited to, any names that the individual may have had or currently has by reason of marriage or otherwise;

(2) Case or docket number of the judicial commitment or the adjudication as a mental defective;

(3) Date judicial commitment ordered or adjudication as a mental defective was made;

(4) Private or state hospital or treatment resource to which the individual was judicially committed;

(5) Date of birth of the individual judicially committed or adjudicated as a mental defective, if such information has been provided to the clerk;

(6) Race and sex of the individual judicially committed or adjudicated as a mental defective; and

(7) Social security number of the individual judicially committed or adjudicated as a mental defective if available.

(c) The information in subdivisions (b)(1) – (7), the confidentiality of which is protected by other statutes or regulations, shall be maintained as confidential and not subject to public inspection pursuant to such statutes or regulations, except for such use as may be necessary in the conduct of any proceeding pursuant to §§ 38-6-109, 39-17-1316, and 39-17-1352 — 39-17-1354.

(d) For purposes of this section, the following definitions shall apply:

(1) “Judicial commitment to a mental institution” means a judicially ordered involuntary admission to a private or state hospital or treatment resource in proceedings conducted pursuant to title 33, chapter 6 or title 33, chapter 7;

(2) “Adjudication as a mental defective or adjudicated as a mental defective” means:

(A) A determination by a court in this state that a person, as a result of marked subnormal intelligence, mental illness, incompetency, condition or disease:

(i) Is a danger to such person or to others; or

(ii) Lacks the ability to contract or manage such person’s own affairs due to mental defect;

(B) A finding of insanity by a court in a criminal proceeding; or

(C) A finding that a person is incompetent to stand trial or is found not guilty by reason of insanity pursuant to 50a and 72b of the Uniform Code of Military Justice (10 U.S.C. §§ 850a, 876b).

33-6-406. Transportation of detainee to treatment facility.

(a) If the person certified for admission under § 33-6-404 is not already at the facility, hospital or treatment resource at which the person is proposed to be admitted, the physician, psychologist or designated professional who completed the certificate of need under § 33-6-404 shall give the sheriff or the transportation agent designated under part 9 of this chapter the original of the certificate and turn the person over to the custody of the sheriff or transportation agent who shall transport the person to a hospital or treatment resource that has available suitable accommodations for the person for proceedings under § 33-6-407; provided, that, if admission is sought to a state-owned or operated hospital or treatment resource, the physician, psychologist or designated professional who completed the certificate of need under § 33-6-404 shall also provide to the sheriff or transportation agent a written statement verifying that the state-owned or operated hospital or treatment resource has been contacted and has available suitable accommodations, and the sheriff or transportation agent shall not be required to take custody of the person for transportation unless both the original of the certificate and the written statement are provided. Failure of the sheriff or other county transportation agent to provide both a certificate of need and the written statement to the receiving state-owned or operated hospital or treatment resource for proceedings under § 33-6-407 shall result in all costs attendant to the person's admission and treatment being assessed to the transporting county.

(b)(1) Before transportation begins, the sheriff or transportation agent shall notify the hospital or treatment resource at which the person is proposed to be admitted as to where the person is and the best estimate of anticipated time of arrival at the hospital or treatment resource.

(2) The sheriff or transportation agent shall notify the hospital or treatment resource of the anticipated time of arrival. If the sheriff or transportation agent has given notice and arrives at the hospital or treatment resource within the anticipated time of arrival, then the sheriff or transportation agent is required to remain at the hospital or treatment resource long enough for the person to be evaluated for admission under § 33-6-407, but not longer than one (1) hour and forty-five (45) minutes. After one (1) hour and forty-five (45) minutes, the person is the responsibility of the evaluating hospital or treatment resource, and the sheriff or transportation agent may leave.

(3) In counties having a population of six hundred thousand (600,000) or more according to the 1970 federal census of population or any subsequent federal census, subdivisions (b)(1) and (2) do not apply, and the sheriff or transportation agent is relieved of further transportation duties after the person has been delivered to the hospital or treatment resource, and transportation duties shall be assumed by appropriate personnel of the hospital or treatment resource.

(c)(1) Subject to annual appropriations, there is established a grant program to assist sheriffs required to transport persons to a hospital or treatment resource for emergency mental health transport under this

section. The department of finance and administration, in consultation with the department of mental health and substance abuse services and the division of TennCare, shall develop and administer the grant program. Assistance from this grant program must not be provided for emergency mental health transports where a physician, psychologist, or designated professional determines that the person can be transported by one (1) or more friends, neighbors, or other mental health professionals familiar with the person, relatives of the person, or a member of the clergy pursuant to § 33-6-901.

(2) A sheriff may contract with one (1) or more third parties or other law enforcement agencies to transport persons to a hospital or treatment resource in accordance with this section. The sheriff shall deem a third party or law enforcement agency contracted to perform this function to be the designated secondary transportation agent pursuant to § 33-6-901. Any contract entered into under this subsection (c) is subject to audit by the comptroller of the treasury or the comptroller's designee.

(3) A sheriff may receive grant funds provided under this subsection (c) and pay the grant funds to third parties or other law enforcement agencies with which the sheriff contracts to transport persons to a hospital or treatment resource in accordance with this section. The receipt or expenditure of grant funds received by a sheriff under this subsection (c) is subject to audit by the comptroller of the treasury or the comptroller's designee.

(d) If telehealth services are available and offered by a hospital or treatment resource at which a person is proposed to be admitted pursuant to this part, then the hospital or treatment resource may elect to conduct an evaluation for admission under § 33-6-407 through telehealth as defined in § 56-7-1002.

33-6-413. Notice of admission to general sessions court — Notice of defendant's rights and status. [Effective until January 1, 2020. See the version effective on January 1, 2020.]

(a) The chief officer, upon admission of the person, shall notify the judge of the general sessions court where the hospital or treatment resource is located, by telephone or in person, and shall provide the information from the certificates of need and such other information as the court may desire, that is in the possession of the hospital or treatment resource, bearing on the condition of the person. If the general sessions court finds that there is probable cause to believe that the defendant is subject to admission to a hospital or treatment resource under § 33-6-403, the court may order the defendant admitted for not more than five (5) days from the date of the order, excluding Saturdays, Sundays and holidays, for emergency diagnosis, evaluation and treatment pending a probable cause hearing under § 33-6-422. If the court does not order the defendant admitted, the defendant shall be released.

(b) The court shall cause a notice containing the information described in this subsection (b) to be mailed to the defendant, the defendant's attorney, the chief officer of the hospital or treatment resource and the parent, legal guardian, conservator, spouse or adult next of kin of the defendant. The notice shall contain the following information:

- (1) The time and place of the probable cause hearing;
- (2) The defendant's rights, including, but not limited to, right to counsel, right to waive a hearing, right to confront and cross-examine witnesses, and

right to be protected from compelled self-incrimination;

(3) The status of the defendant if judicially committed, including, but not limited to:

(A) The person's prohibition against purchasing a firearm under § 39-17-1316;

(B) The person's prohibition against obtaining a handgun carry permit under § 39-17-1351; and

(C) The suspension or revocation of a handgun carry permit under § 39-17-1352 once judicially committed to a hospital or treatment resource pursuant to this title;

(4) The person's right to appeal the prohibition against purchasing a firearm pursuant to § 39-17-1316; and

(5) The person's right to appeal the denial of a handgun carry permit pursuant to §§ 39-17-1352, 39-17-1353, and 39-17-1354.

33-6-413. Notice of admission to general sessions court — Notice of defendant's rights and status. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) The chief officer, upon admission of the person, shall notify the judge of the general sessions court where the hospital or treatment resource is located, by telephone or in person, and shall provide the information from the certificates of need and such other information as the court may desire, that is in the possession of the hospital or treatment resource, bearing on the condition of the person. If the general sessions court finds that there is probable cause to believe that the defendant is subject to admission to a hospital or treatment resource under § 33-6-403, the court may order the defendant admitted for not more than five (5) days from the date of the order, excluding Saturdays, Sundays and holidays, for emergency diagnosis, evaluation and treatment pending a probable cause hearing under § 33-6-422. If the court does not order the defendant admitted, the defendant shall be released.

(b) The court shall cause a notice containing the information described in this subsection (b) to be mailed to the defendant, the defendant's attorney, the chief officer of the hospital or treatment resource and the parent, legal guardian, conservator, spouse or adult next of kin of the defendant. The notice shall contain the following information:

(1) The time and place of the probable cause hearing;

(2) The defendant's rights, including, but not limited to, right to counsel, right to waive a hearing, right to confront and cross-examine witnesses, and right to be protected from compelled self-incrimination;

(3) The status of the defendant if judicially committed, including, but not limited to:

(A) The person's prohibition against purchasing a firearm under § 39-17-1316;

(B) The person's prohibition against obtaining a handgun carry permit under § 39-17-1351 or § 39-17-1366; and

(C) The suspension or revocation of a handgun carry permit under § 39-17-1352 once judicially committed to a hospital or treatment resource pursuant to this title;

(4) The person's right to appeal the prohibition against purchasing a firearm pursuant to § 39-17-1316; and

(5) The person's right to appeal the denial of a handgun carry permit pursuant to §§ 39-17-1352, 39-17-1353, and 39-17-1354.

34-1-101. Chapter 1-3 definitions.

As used in this chapter and chapters 2 and 3 of this title, unless the context otherwise requires:

(1) "Adversary counsel" means a private lawyer hired by a respondent to represent the respondent's interest in any action under this chapter and chapters 2 and 3 of this title;

(2) "Attorney ad litem" means an attorney appointed by the court to act as counsel for the respondent;

(3) "Closest relative" or "closest relatives" means the person or persons who are in the level of intestate heirs nearest to the respondent under the Tennessee laws of intestate succession. If there are two (2) or more closest relatives, all such persons shall be treated equally;

(4)(A) "Conservator" or "co-conservators" means a person or persons or an entity appointed by the court to exercise the decision-making rights and duties of the person with a disability in one or more areas in which the person lacks capacity as determined and required by the orders of the court;

(B) "Conservatorship" is a proceeding in which a court removes the decision-making powers and duties, in whole or in part, in a least restrictive manner, from a person with a disability who lacks capacity to make decisions in one or more important areas and places responsibility for one or more of those decisions in a conservator or co-conservators;

(5) "Corporate surety" means a corporation admitted to do business in the state and licensed under title 56, chapter 2;

(6) "Court" means any court having jurisdiction to hear matters concerning guardians or conservators;

(7) "Fiduciary" means a guardian, coguardian, conservator, co-conservator, or qualified trustee as defined in § 35-16-102(12)(A);

(8) "Financial institution" means a bank as defined by § 45-2-107, a savings and loan association as defined by § 45-3-104, a credit union subject to title 45, chapter 4, or a nonprofit general welfare corporation as defined in § 45-2-105;

(9) "Guardian" or "coguardian" means a person or persons appointed by the court to provide partial or full supervision, protection and assistance of the person or property, or both, of a minor;

(10) "Guardian ad litem" means a person meeting the qualifications set forth in § 34-1-107(c) appointed by the court to investigate the allegations in a petition, perform the duties set forth in § 34-1-107(d) and report to the court with recommendations as to the best interests of the respondent;

(11) "Least restrictive alternatives" means techniques and processes that preserve as many decision-making rights as practical under the particular circumstances for the person with a disability;

(12) "Minor" means any person who has not attained eighteen (18) years of age and who has not otherwise been emancipated;

(13) "Person" means any individual, nonhuman entity or governmental agency;

(14) "Person with a disability" means any person eighteen (18) years of age or older determined by the court to be in need of partial or full supervision, protection, and assistance by reason of mental illness, physical illness or injury, developmental disability, or other mental or physical incapacity;

(15) "Physician" means a medical doctor or doctor of osteopathic medicine who is licensed to practice medicine in the state of Tennessee;

(16) "Property management plan" means the plan submitted by the fiduciary for the investment and management of the property of a minor or person with a disability;

(17) "Psychologist" means a psychologist who is licensed to practice in the state of Tennessee; and

(18) "Respondent" means a person who is a minor or is alleged to be a person with a disability for whom a fiduciary is being sought.

34-1-104. Letters of guardianship or conservatorship — Disposition of funds of minor under \$25,000 — Discharge of paying entities — Order of distribution — Distribution of funds — Direction of funds into trust.

(a) Except as provided in subsections (b)-(d), no person shall undertake the administration of the estate of a minor or person with a disability until the person has been issued letters of guardianship or letters of conservatorship; provided, that no guardian or conservator shall be appointed if the property of the minor or person with a disability is deposited with the clerk of the court subject to distribution on order of the court. The letters of conservatorship shall either:

(1) Recite the specific powers to be exercised by the conservator and the specific powers retained by the person with a disability; or

(2) Have attached to them the order or orders of the court specifying the powers to be exercised by the conservator and the powers retained by the person with a disability.

(b) If the total property of a minor or person with a disability does not exceed the sum of twenty-five thousand dollars (\$25,000) and the court determines it is in the best interest of the minor or person with a disability, the court may order any person holding property belonging to the minor or person with a disability to deliver all or any part of the money or property, without the necessity of the appointment of a fiduciary, to the natural guardian or guardians of the minor or to the person with whom the minor or person with a disability resides or to the person with a disability. Notwithstanding any law to the contrary, if the guardians of the minor are the parents of the minor and are divorced or legally separated from each other, the court may order that the funds be delivered, all or in part, to either of the parents if the court finds that such order would best serve the welfare of the minor. The receipt by any of these persons of the money or property discharges the paying entity from further liability. To bring the matter before the court, any person may petition the court for an order of distribution. The petition shall set forth the information required by § 34-2-104 and § 34-3-104, except the petition shall request distribution according to this section instead of the appointment of a fiduciary. The court may appoint a guardian ad litem to assist it in determining the best interest of the minor or person with a disability.

(c) In any judicial proceeding in which any fund or part of the fund is

decreed to belong to a minor or person with a disability, or in which there is a recovery in favor of a minor or person with a disability, the court trying the case may retain the fund or recovery or part of the fund or recovery to be disbursed by the clerk and master or clerk of the court for the support, maintenance or education of the minor or person with a disability under the orders of the court; provided, that the fund or part of the fund or the amount of the recovery does not exceed the sum of twenty-five thousand dollars (\$25,000) and the minor is without a legal guardian; and provided further, that the court, in its discretion, may direct the fund to be paid to the natural guardian of the minor or the other person having the care and custody of the minor or person with a disability to be applied for the support, maintenance or education of the minor or person with a disability, subject to such terms and conditions as the court may impose.

(d) In a proceeding to determine letters of guardianship or conservatorship, the court shall be vested with the authority to direct any fund or part of the fund decreed to belong to a minor or person with a disability, or in which there is recovery in favor of a minor or person with a disability, into a trust created under the Tennessee Uniform Trust Code, compiled in title 35, chapter 15 with such fiduciary appointed upon order of the court according to this chapter.

34-1-115. Investments — Trust — Management plan — Court approval — Waiver.

(a) A fiduciary is limited in its investments to the investments permitted by title 35, chapter 3 unless estate funds or property, or both, are transferred to a trust created pursuant to the Tennessee Uniform Trust Code, compiled in title 35, chapter 15. All funds held by a fiduciary shall be invested within forty-five (45) days of receipt of the funds unless otherwise allowed by the court.

(b) Except as provided in subsection (d), at the hearing for the appointment of a fiduciary, the proposed fiduciary shall present an outline of the proposed property management plan for the respondent's property. If the proposed property management plan cannot be presented at the appointment hearing, the fiduciary shall submit the proposed property management plan to the court for approval before any property is invested. The purpose of the property management plan is to advise the court of the general type of property in which the respondent's property will be invested so the court will be assured the fiduciary will be making approved investments. The plan need not detail the individual asset or assets. For example, if the fiduciary plans to invest in certificates of deposit, the plan need only make that statement. It is not necessary to identify the individual institution or institutions whose certificates will be purchased.

(c) Except as provided in subsections (d) and (f), each fiduciary shall request court approval to change the nature of the fiduciary's investment or investments. Compliance with the preceding sentence does not require court approval to change the same type of investment from one institution to another. For example, changing a certificate of deposit from one institution to another does not require court approval. Changing from one type of investment to another does require court approval. For example, changing from a certificate of deposit to traded stock would require court approval. If the fiduciary's property management plan describes proposed changes the fiduciary would make in response to economic and market conditions, the court may grant

advance approval to make changes as described in the plan.

(d) If the fiduciary is a financial institution, it shall not be required to seek court approval to change any investment.

(e)(1) Notwithstanding any law to the contrary, no property management plan shall be required for the property of a minor or person with a disability if such property does not exceed twenty-five thousand dollars (\$25,000) in value, unless, on the motion of any interested party, including the guardian ad litem, the court finds such plan would be in the best interest of such minor or person with a disability.

(2) If no plan is filed pursuant to subdivision (e)(1), the fiduciary's first accounting and all subsequent accountings shall state how the funds of the estate are invested and how the fiduciary proposes that the funds will be invested for the coming year.

(f)(1) A fiduciary may petition the court to waive the requirement to request court approval to change the nature of any investment described in the property management plan as required by subsection (c). The waiver shall be within the court's sole discretion, and the court may revoke the waiver at any time. In deciding upon the waiver, the court may consider the fiduciary's history as a conservator, the length of conservatorship, the number of years the fiduciary has acted as a conservator, and any other factors that the court deems proper. The court may require the conservator to obtain professional advice or assistance regarding the investment of excess funds.

(2) The court may approve the waiver request at a hearing for which all of the respondent's heirs at law or beneficiaries had notice and an opportunity to be heard regarding the proposed waiver and change of the nature of the fiduciary's investments.

(3) If a waiver is approved by the court, the waiver shall be reduced to a written order. The fiduciary shall at all times maintain a minimum balance of funds sufficient to cover anticipated costs of care of the respondent for a minimum of three (3) years.

(4) If a waiver is approved by the court, the fiduciary shall provide, in the accounting report required by § 34-1-111(b), a detailed outline of the investments made on behalf of the respondent and the current status of those investments. The purpose of the report is to assure the court that:

(A) The fiduciary maintains the minimum balance prescribed by the court;

(B) The fiduciary is responsibly investing the respondent's assets within the categories of investments approved in § 35-3-102;

(C) The investment strategy demonstrates reasonable diversification to limit the risk of loss in vested funds;

(D) There are no investments that would expose the respondent to any additional liability other than the possible depletion or loss of funds invested; and

(E) The fiduciary keeps the court informed as to any changes in investments.

(g) If funds are transferred to a trust as referenced in subsection (a), the fiduciary and trust protector are relieved of requirements under this title where trust assets, investments, and their financial nature require public disclosure or filing upon public record. A certification of trust outlined under § 35-15-1013 may be filed with the clerk of the court to show such trust is created. Such trust must be governed and administered by a qualified trustee

as permitted by title 35. Further, the court clerk with personal jurisdiction over the person with a disability or minor must be named trust protector of said trust with powers prescribed by §§ 35-15-1201 — 35-15-1206.

34-7-104. Powers and duties of district public guardian.

(a) The duties and powers of the district public guardian are as follows:

(1) To serve as conservator for disabled persons who are sixty (60) years of age or older who have no family members or other person, bank or corporation willing and able to serve as conservator;

(2) The district public guardian does not have any power or authority beyond that set forth for a conservator in chapters 1, 2 and 3 of this title; and

(3) To provide for the least intrusive alternatives, the district public guardian may accept power of attorney.

(b) The district public guardian may employ sufficient staff to carry out the duties of the office.

(c) The district public guardian may delegate to staff members the powers and duties of the office of district public guardian except as otherwise limited by law. The district public guardian retains ultimate responsibility for the discharge of required duties and responsibilities.

(d)(1) A district public guardian may accept the services of volunteer persons and organizations, and raise money to supplement operating costs.

(2) The commission on aging, in consultation with the departments of human services and health, may develop and implement a statewide program to recruit, train, assign, supervise and evaluate volunteer persons to assist district public guardians in maintaining the independence and dignity of their elderly wards. In developing and implementing this statewide program, the commission on aging shall solicit input and resources from interested organizations, including, but not necessarily limited to, community senior citizen centers, churches and synagogues having senior projects and programs under the auspices of the American Association of Retired Persons. Each volunteer shall possess demonstrated personal characteristics of honesty, integrity, compassion and caring for the elderly. The background of each volunteer shall be subject to appropriate inquiry and investigation. Volunteers shall receive no salary but may be reimbursed by the commission on aging for travel and other expenses incurred directly as a result of the performance of volunteer services.

(e) If the disabled person qualifies for SSI benefits, no charge will be made against the disabled person's estate for court costs or fees of any kind. Under no circumstances may court costs be assessed to the public guardianship program.

(f) If the disabled person does not qualify for SSI benefits, costs and compensation of the district public guardian shall be determined under §§ 34-1-112 and 34-1-114.

(g)(1) All funds received on behalf of a disabled person by the district public guardianship program shall be handled under a computerized accounting package approved by the commission on aging, and shall be audited annually by the state.

(2) All other assets received by the district public guardian shall be handled in accordance with state laws, rules and court regulation or regulations as to disposition of property and record keeping.

(3) Upon termination of the conservatorship, all assets remaining in the estate shall be paid over to the disabled person or to the disabled person's legal representative.

(h) While performing conservatorship duties, the district public conservator shall continue to seek a family member, friend, other person, bank or corporation qualified and willing to serve as conservator. If such an individual, bank or corporation is located, the district public conservator shall submit a motion to the court for appointment of the qualified and willing successor conservator.

(i) A person appointed successor district public guardian immediately succeeds to all rights, duties, responsibilities and powers of the preceding district public guardian.

(j) When the position of district public guardian is vacant, subordinate personnel employed under subsection (c) shall continue to act as if the position of district public guardian were filled.

(k) A district public guardian shall be required to post bond in individual cases in accordance with § 34-1-105. The commission on aging shall arrange out of the program budget to purchase a statewide bond that shall ensure the fiduciary responsibilities of the district public guardian in all court appointed cases.

(l) The district public guardian shall adhere to all state laws that are applicable to conservatorship.

(m) To ensure adequate services for each disabled person, the district public guardian shall submit certification to the court when maximum caseload has been attained, and the court shall not assign additional disabled persons while maximum caseload is maintained. Maximum caseload shall be certified by the commission on aging upon review of verifying documentation submitted by the district public guardian and the grantee agency director. The district public guardian must notify the court when caseload has been reduced to less than maximum load.

(n)(1) Notwithstanding subsection (a) to the contrary, the executive director of the Tennessee commission on aging and disability may request the district public guardian to serve as a conservator for disabled persons who are younger than sixty (60) years of age if the following conditions are met:

(A) The request is made through a court; and

(B) The court has found on the record that:

(i) There are no other less intrusive alternatives available for the disabled person; and

(ii) The disabled person has no family members or other person, bank, or corporation willing and able to serve as conservator.

(2) Should the district public guardian take on the responsibilities of a guardian for a disabled person pursuant to subdivision (n)(1), the guardian must adhere, in performing the guardian's duty, to all provisions of this chapter and to all applicable state laws.

35-5-109. Published ending time and published start time for auctions.

The published ending time for auctions conducted under this chapter on an internet-based bidding platform and the published start time for an in-person auction must be between the hours of nine o'clock a.m. (9:00 a.m.) and seven o'clock p.m. (7:00 p.m.) of the day fixed in the notice or advertisement. The day

fixed may be any day Monday through Saturday, but must not be fixed on a state or federal legal holiday. However, this section does not apply to sales of parcels pursuant to title 67, chapter 5.

35-5-112. Auctioneer services and fee — Manner and method of sale of real property at discretion of court.

(a) Whenever real or personal property is to be sold at public sale under any order or decree of any court in this state, the court, judge or chancellor under whose jurisdiction the sale is to be made has the discretionary authority to secure the services of an auctioneer licensed in this state to conduct the public sale and to fix the auctioneer's fee, the fee to be not more than eight percent (8%) of the sale price on sales of real property and not more than ten percent (10%) of the sale price on sales of personal property, these fees not to include the expenses of sales, and to order the fee to be paid out of the proceeds of the sale.

(b) Whenever real property is sold at a public sale conducted by an auctioneer, the manner and method of sale is at the discretion of the court. As used in this section, "public sale" includes auctions on internet-based bidding platforms, in-person, on-site, or off-site auctions, and other accepted auction methods, so long as the auctions are open for participation by the public at large. The court, in its discretion, may impose additional conditions or procedures upon the sale of property as are reasonably necessary.

(c) If the clerk of the court or clerk and master is also a licensed auctioneer, then the clerk or clerk and master shall receive fees in that person's capacity as clerk, or clerk and master, or special commissioner, and shall not receive any extra fee as a licensed auctioneer.

35-6-108. Total return unitrusts.

(a) In this section:

(1) "Disinterested person" means a person who is not a "related or subordinate party," as defined in 26 U.S.C. § 672(c), with respect to the person then acting as trustee of the trust and excludes the trustor of the trust and any interested trustee;

(2) "Income trust" means a trust, created by either an inter vivos or a testamentary instrument, which directs or permits the trustee to distribute the net income of the trust to one (1) or more persons, either in fixed proportions or in amounts or proportions determined by the trustee and regardless of whether the trust directs or permits the trustee to distribute the principal of the trust to one (1) or more such persons;

(3) "Interested distributee" means a person to whom distributions of income or principal can currently be made who has the power to remove the existing trustee and designate as successor a person who may be a "related or subordinate party," as defined in 26 U.S.C. § 672(c), with respect to such distributee;

(4) "Interested trustee" means an individual trustee who is a qualified beneficiary or any trustee who may be removed and replaced by an interested distributee, or an individual trustee whose legal obligation to support a beneficiary may be satisfied by distributions of income and principal of the trust;

(5) "Internal Revenue Code" refers to the Internal Revenue Code of 1986, as amended from time to time, and any references to a section of such shall include any successor, substituted, or amended section of the Internal Revenue Code;

(6) "Total return unitrust" means an income trust that has been converted under this section or the laws of any other jurisdiction that permits an income trust to be converted to a trust in which a unitrust amount is treated as the net income of the trust;

(7) "Trustee" means all persons acting as trustee of the trust, except where expressly noted otherwise, whether acting in their discretion or on the direction of one (1) or more persons acting in a fiduciary capacity;

(8) "Trustor" means an individual who created an inter vivos or a testamentary trust;

(9) "Qualified beneficiaries" means those beneficiaries of a trust specified in § 35-15-103(24); and

(10) "Unitrust amount" means an amount computed as a percentage of the fair market value of the trust.

(b) A trustee, other than an interested trustee, or where two (2) or more persons are acting as trustee, a majority of the trustees who are not an interested trustee, in either case hereafter "trustee", may, in its sole discretion and without court approval:

(1) Convert an income trust to a total return unitrust;

(2) In the case of a total return unitrust converted under this section or the laws of any other jurisdiction, reconvert a total return unitrust to an income trust; or

(3) In the case of a total return unitrust converted under this section or the laws of any other jurisdiction, change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust if all of the following apply:

(A) The trustee adopts a written policy for the trust providing:

(i) In the case of a trust being administered as an income trust, that future distributions from the trust will be unitrust amounts rather than net income;

(ii) In the case of a trust being administered as a total return unitrust, that future distributions from the trust will be net income rather than unitrust amounts; or

(iii) That the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust will be changed as stated in the policy;

(B) The trustee sends written notice of its intention to take such action, along with copies of such written policy and this section, to the trustor of the trust, if living, and to all qualified beneficiaries of the trust;

(C) At least one (1) person receiving notice under subdivision (b)(3)(B) is legally competent; and

(D) No person receiving such notice objects, by written instrument delivered to the trustee, to the proposed action of the trustee within thirty (30) days of receipt of such notice.

(c) If there is no trustee of the trust other than an interested trustee, the interested trustee or, where two (2) or more persons are acting as trustee and are interested trustees, a majority of such interested trustees may, in its sole discretion and without court approval:

- (1) Convert an income trust to a total return unitrust;
- (2) Reconvert a total return unitrust to an income trust; or
- (3) Change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust if all of the following apply:

(A) The trustee adopts a written policy for the trust providing:

(i) In the case of a trust being administered as an income trust, that future distributions from the trust will be unitrust amounts rather than net income;

(ii) In the case of a trust being administered as a total return unitrust, that future distributions from the trust will be net income rather than unitrust amounts; or

(iii) That the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust will be changed as stated in the policy;

(B) The trustee appoints a disinterested person who, in its sole discretion but acting in a fiduciary capacity, determines for the trustee:

(i) The percentage to be used to calculate the unitrust amount;

(ii) The method to be used in determining the fair market value of the trust; and

(iii) Which assets, if any, are to be excluded in determining the unitrust amount;

(C) The trustee sends written notice of its intention to take such action, along with copies of such written policy and this section, and the determinations of the disinterested person to the trustor of the trust, if living, and to all qualified beneficiaries of the trust;

(D) At least one (1) person receiving notice under subdivision (c)(3)(C), of this section is legally competent; and

(E) No person receiving such notice objects, by written instrument delivered to the trustee, to the proposed action or the determinations of the disinterested person within thirty (30) days of receipt of such notice.

(d) If any trustee desires to convert an income trust to a total return unitrust, reconvert a total return unitrust to an income trust, or change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust but does not have the ability to or elects not to do it under subsection (b) or (c), the trustee may petition the court for such order as the trustee deems appropriate. In the event, however, there is only one (1) trustee of such trust and such trustee is an interested trustee or in the event there are two (2) or more trustees of such trust and a majority of them are interested trustees, the court, in its own discretion or on the petition of such trustee or trustees or any person interested in the trust, may appoint a disinterested person who, acting in a fiduciary capacity, shall present such information to the court as shall be necessary to enable the court to make its determinations hereunder.

(e) The fair market value of the trust shall be determined at least annually, using such valuation date or dates or averages of valuation dates as are deemed appropriate. Assets for which a fair market value cannot be readily ascertained shall be valued using such valuation methods as are deemed reasonable and appropriate. Assets used by a trust beneficiary, such as a residence property or tangible personal property, may be excluded from fair market value for computing the unitrust amount.

(f) The percentage to be used in determining the unitrust amount shall be a

reasonable current return from the trust, in any event not less than three percent (3%) nor more than five percent (5%), taking into account the intentions of the trustor of the trust as expressed in the governing instrument, the needs of the beneficiaries, general economic conditions, projected current earnings and appreciation for the trust, and projected inflation and its impact on the trust.

(g) Following the conversion of an income trust to a total return unitrust, the trustee:

(1) Shall consider the unitrust amount as paid from net accounting income determined as if the trust were not a unitrust;

(2) Shall then consider the unitrust amount as paid from ordinary income not allocable to net accounting income;

(3) After calculating the trust's capital gain net income described in 26 U.S.C. § 1222(9), may consider the unitrust amount as paid from net short-term capital gain described in 26 U.S.C. § 1222(5) and then from net long-term capital gain described in 26 U.S.C. § 1222(7); and

(4) Shall then consider the unitrust amount as coming from the principal of the trust.

(h) In administering a total return unitrust, the trustee may, in its sole discretion but subject to the governing instrument, determine:

(1) The effective date of the conversion;

(2) The timing of distributions, including, but not limited to, provisions for prorating a distribution for a short year in which a beneficiary's right to payments commences or ceases;

(3) Whether distributions are to be made in cash or in kind or partly in cash and partly in kind;

(4) If the trust is reconverted to an income trust, the effective date of such reconversion; and

(5) Such other administrative issues as may be necessary or appropriate to carry out the purposes of this section.

(i) Conversion to a total return unitrust under this section shall not affect any other provision of the governing instrument, if any, regarding distributions of principal.

(j) In the case of a trust for which a marital deduction has been taken for federal tax purposes under 26 U.S.C. § 2056 or § 2523, the spouse otherwise entitled to receive the net income of the trust shall have the right, by written instrument delivered to the trustee, to compel the reconversion during that spouse's lifetime of the trust from a total return unitrust to an income trust, notwithstanding anything in this section to the contrary.

(k)(1) This section shall be construed as pertaining to the administration of a trust and shall be available to any trust including a trust initially converted to a total return unitrust under the laws of another jurisdiction that is administered in Tennessee under Tennessee law or to any trust, regardless of its place of administration, whose governing instrument provides that Tennessee law governs matters of construction or administration unless:

(A) The governing instrument reflects an intention that the current beneficiary or beneficiaries are to receive an amount other than a reasonable current return from the trust;

(B) The trust is a pooled income fund described in 26 U.S.C. § 642(c)(5) or a charitable-remainder trust described in 26 U.S.C. § 664(d); and

(C) The governing instrument expressly prohibits use of this section by specific reference to the section or expressly states the trustor's intent that net income not be calculated as a unitrust amount.

(2) Any of the following statements in the governing instrument, or words similar to such statements, shall be sufficient to preclude the use of this section:

The provisions of § 35-6-109, as amended, or any corresponding provision of future law, shall not be used in the administration of this trust; or

My trustee shall not determine the distributions to the income beneficiary as a unitrust amount.

(l) Any trustee or disinterested person who in good faith takes or fails to take any action under this section shall not be liable to any person affected by such action or inaction, regardless of whether such person received written notice as provided in this section and regardless of whether such person was under a legal disability at the time of the delivery of such notice. Such person's exclusive remedy shall be to obtain an order of the court directing the trustee to convert an income trust to a total return unitrust, to reconvert from a total return unitrust to an income trust or to change the percentage used to calculate the unitrust amount.

(m) This section shall be available to trusts in existence on July 1, 2010, or created thereafter.

35-15-110. Others treated as qualified beneficiaries.

(a) A charitable organization expressly designated to receive distributions under the terms of a charitable trust has the rights of a qualified beneficiary under this chapter, if the charitable organization, on the date the charitable organization's qualification is being determined, would be a qualified beneficiary under this chapter if such charitable organization were an individual beneficiary.

(b) The attorney general and reporter has the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in this state if all of the interests in the trust that are for a charitable purpose, in the aggregate, on the date the attorney general and reporter's qualification is being determined, would cause an individual beneficiary to be a qualified beneficiary under this chapter if all of such interests were for the benefit of an individual beneficiary instead of for charitable purposes.

35-15-205. Petition for final accounting upon resignation or removal of trustee or termination of trust.

(a) If the trustee resigns, is removed, or upon the full or partial termination of the trust, a qualified beneficiary or successor trustee may petition the court to require the trustee transferring or distributing the trust to appear before the court for a final accounting. However, a successor trustee shall not have any obligation to petition the court to require the final accounting. The trustee transferring or distributing the trust may also petition the court to approve a final accounting relieving the trustee from liability for the period of its administration. The final accounting period shall begin from the latest of:

(1) The date of acceptance of the trusteeship by the trustee; or

(2) The end of the period since an accounting was last approved by the court.

(b) The petition shall set forth:

- (1) The name and address of the trustee;
- (2) The qualified beneficiaries of the trust; and
- (3) The period that the accounting covers.

(c) The petition shall be served on each qualified beneficiary or their representative under part 3 of this chapter to the extent there is no material conflict of interest or on the trustee.

(d) Upon review of the trustee's final accounting and after considering any objections thereto and any evidence presented, the court may approve the final accounting or enter judgment granting appropriate relief. If no objection to the petition is filed within the time allowed by law after service, or if the parties consent, the petition may be approved without notice, hearing, or further proceedings. The final judgment of the court shall be binding on all parties.

(e) Upon approval of the petition, the trustee shall be relieved from liability for the period covered by the final accounting.

(f) Costs and expenses, including reasonable attorney's fees of the trustee, shall be taxed against the trust, unless otherwise directed by the court.

35-15-302. Representation by holder of power of appointment — “General power of appointment” defined.

(a)(1) To the extent there is no material conflict of interest between the holder of a power of appointment and the persons represented with respect to the particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power. Notwithstanding this section to the contrary, the holder of any general power of appointment may, regardless of whether there is a material conflict of interest between the holder of such general power of appointment and the persons represented with respect to the particular question or dispute, represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to such power.

(2) As used in this section, “general power of appointment” means a power, regardless of when exercisable, to appoint in favor of any one (1) or more of the following: such power holder, such power holder's creditors, such power holder's estate, and the creditors of the estate of such power holder.

(b) Notwithstanding subsection (a) to the contrary, if the holder, under the terms of the governing instrument, may only exercise such general power of appointment with the consent of another person, then the written consent of such other person is required in order for the holder of the general power of appointment to represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.

35-15-411. Modification or termination of noncharitable irrevocable trust by consent.

(a) During the settlor's lifetime, a noncharitable irrevocable trust may be modified or terminated by the trustee upon consent of all qualified beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust if the settlor does not object to the proposed modification or termination. The trustee shall notify the settlor of the proposed modification or termination not less than sixty (60) days before initiating the modification

or termination. The notice of modification or termination must include:

(1) An explanation of the reasons for the proposed modification or termination;

(2) The date on which the proposed modification or termination is anticipated to occur; and

(3) The date, not less than sixty (60) days after the giving of the notice, by which the settlor must notify the trustee of an objection to the proposed modification or termination.

(b) Following the settlor's death, a noncharitable irrevocable trust may be terminated upon consent of all of the qualified beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust.

(c) Following the settlor's death, a noncharitable irrevocable trust may be modified upon the unanimous agreement of the trustee and all qualified beneficiaries as provided under § 35-15-111 if such modification does not violate a material purpose of the trust. Additionally, a noncharitable irrevocable trust may be modified upon consent of all of the qualified beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(d) Modification of a trust as authorized in this section is not prohibited by a spendthrift clause or by a provision in the trust instrument that prohibits amendment or revocation of the trust.

(e) An agreement to modify a trust as authorized by this section is binding on a beneficiary whose interest is represented by another person under part 3 of this chapter.

(f) Upon termination of a trust under subsection (a) or (b), the trustee shall distribute the trust property as agreed by the qualified beneficiaries.

(g) If not all of the qualified beneficiaries consent to a proposed modification or termination of the trust under subsection (a), (b), or (c), as applicable, the modification or termination may be approved by the court if the court is satisfied that:

(1) If all of the qualified beneficiaries had consented, the trust could have been modified or terminated under this section; and

(2) The interests of a qualified beneficiary who does not consent will be adequately protected.

(h) As used in this section, "noncharitable irrevocable trust" refers to a trust that is not revocable by the settlor with respect to which:

(1) No federal or state income, gift, estate, or inheritance tax charitable deduction was allowed upon transfers to the trust; and

(2) The value of all interests in the trust owned by charitable organizations does not exceed five percent (5%) of the value of the trust.

(i) Notwithstanding subsection (a), (b), or (c), the trustee may seek court approval of a modification or termination.

35-15-414. Modification or termination of uneconomic trust.

(a) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property having either a total value less than one hundred thousand dollars (\$100,000) or for which the trustee's annual fee for administering the trust, as set forth in the trustee's published fee schedule, is five percent (5%) or more of the market value of the principal assets of the trust as of the last day

of the preceding trust accounting year or the present market value of the principal assets of the trust if there is no applicable trust accounting for a preceding year may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration.

(b) The court may modify or terminate a trust or remove the trustee and appoint a different trustee if it determines that the value of the trust property is insufficient to justify the cost of administration.

(c) Upon the termination of a trust under this section, the trustee shall distribute the trust property to or for the benefit of the beneficiaries, in such shares as the trustee, or the court if a court proceeding, determines, after taking into account the interests of income and remainder beneficiaries so as to conform as nearly as possible to the intention of the settlor, but a trust that qualified for the marital deduction for tax purposes shall only be distributed to the spouse of the settlor for whom the trust was created.

(d) This section does not apply to an easement for conservation or preservation.

(e) This section shall not limit the right of a trustee, acting alone, to terminate a trust in accordance with applicable provisions of the governing instrument.

35-15-505. Creditor's claims against settlor.

(a) Whether or not the terms of a trust contain a spendthrift provision, the following rules apply:

(1) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.

(2) Except as provided in chapter 16 of this title regarding investment services trusts and subdivisions (a)(3)-(5) regarding an irrevocable special needs trust, a creditor or assignee of the settlor of an irrevocable trust may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one (1) settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution;

(3) For the purposes of this section, "irrevocable special needs trust" means an irrevocable trust established for the benefit of one or more disabled persons, which includes, but is not limited to, any individual who is disabled pursuant to 42 U.S.C. § 1382c(a), as well as any individual who is disabled pursuant to any similar federal, state or other jurisdictional law or regulation, or has a condition that is substantially equivalent to one that qualifies them to be so disabled in accordance with any of the above even if not officially found to be so disabled by a governmental body if one of the purposes of the trust, expressed in the trust instrument or implied from the trust instrument, is to allow the disabled person to qualify or continue to qualify for public, charitable or private benefits that might otherwise be available to the disabled person. The existence of one or more nondisabled remainder beneficiaries of the trust shall not disqualify it as an irrevocable special needs trust for the purposes of this section;

(4) No creditor or assignee of the settlor of an irrevocable special needs trust, as defined in subdivision (a)(3), may reach or compel distributions from such special needs trust, to or for the benefit of the settlor of such special needs trust, or otherwise, regardless of whether or not such irrevocable special needs trust complies with, and irrespective of the requirements

of, chapter 16 of this title; and

(5) Notwithstanding any law to the contrary, neither a creditor nor any other person shall have any claim or cause of action against the trustee or other fiduciary, or an advisor of an irrevocable special needs trust. For purposes of this subdivision (a)(5), an advisor of an irrevocable special needs trust includes any person involved in the counseling, drafting, preparation, execution or funding of an irrevocable special needs trust.

(6) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable immediately preceding the settlor's death is subject to claims of the settlor's creditors, costs of administration of the settlor's estate and the expenses of the settlor's funeral and disposal of remains. With respect to claims, expenses, and taxes in connection with the settlement of the settlor's estate, any claim of a creditor that would be barred against the fiduciary of a settlor's estate, the estate of the settlor, or any creditor or beneficiary of the settlor's estate shall be barred against the trust property of a trust that was revocable at the settlor's death, the trustee of the revocable trust, and the creditors and beneficiaries of the trust. The provisions of § 30-2-317(a) detailing the priority of payment of claims, expenses, and taxes from the probate estate of a decedent shall apply to a revocable trust to the extent the assets of the settlor's probate estate are inadequate and the personal representative or creditor or taxing authority of the settlor's estate has perfected its right to collect from the settlor's revocable trust.

(b) For purposes of this section during the period a power of withdrawal may be exercised or upon the lapse, release, or waiver of the power, the holder is treated as the settlor of the trust only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in § 2041(b)(2) or 2514(e) of the Internal Revenue Code of 1986 (26 U.S.C. § 2041(b)(2) and § 2514(e)), or § 2503(b) of the Internal Revenue Code of 1986 (26 U.S.C. § 2503(b)), in each case as in effect on July 1, 2004, or as later amended.

(c) For purposes of subdivision (a)(2), the power of a trustee of an irrevocable trust, whether arising under the trust agreement or any other provision of the law, to make a distribution to or for the benefit of a settlor for the purpose of reimbursing the settlor in an amount equal to any income taxes payable on any portion of the trust principal and income that are includable in the settlor's personal income under applicable law, as well as distributions made by the trustee pursuant to such authority, shall not be considered an amount that may be distributed to or for the settlor's benefit.

(d) With respect to an irrevocable trust for which the settlor made a qualified election pursuant to 26 U.S.C. § 2523(f), the power of a trustee, and any benefit resulting to the settlor from any exercise of such power, whether arising under the trust agreement or any other provision of the law, to make a distribution to or for the benefit of a settlor or to otherwise permit the settlor to use or benefit from trust property following the death of the settlor's spouse, shall not be considered an amount that may be distributed to or for the settlor's benefit for purposes of subdivision (a)(2). This subsection (d) shall not limit a creditor's remedies under the Uniform Fraudulent Transfer Act, compiled in title 66, chapter 3, part 3, regarding the settlor's transfers to such trust.

(e) For purposes of subdivision (a)(2) and subsection (g), a person who is the holder of a power of withdrawal is not considered a settlor of the trust by failing to exercise that power of withdrawal or letting that power of withdrawal

342

lapse.

(f) For purposes of subdivision (a)(2) and subsection (g), a person who becomes a beneficiary of a trust due to the exercise of a power of appointment by someone other than such person shall not be considered a settlor of the trust.

(g)(1) Notwithstanding § 66-3-310, no person shall bring an action with respect to a transfer of property to a spendthrift trust:

(A) If the person is a creditor when the transfer is made, unless the action is commenced within the later of two (2) years after the transfer is made or six (6) months after the person discovers or reasonably should have discovered the transfer; or

(B) If the person becomes a creditor after the transfer is made, unless the action is commenced within two (2) years after the transfer is made; and

(2) If subdivision (g)(1) applies:

(A) A person shall be deemed to have discovered the existence of a transfer at the time any public record is made of the transfer, including but not limited to, a conveyance of real property that is recorded in the office of the county register of deeds of the county in which the property is located or the filing of a financing statement under title 47, chapter 9, or the equivalent recording or filing of either with the appropriate person or official under the laws of a jurisdiction other than this state;

(B) No creditor shall bring an action with respect to a transfer of property to a spendthrift trust unless that creditor proves by clear and convincing evidence that the settlor's transfer to the trust was made with the intent to defraud that specific creditor; and

(i) Notwithstanding any law to the contrary, neither a creditor nor any other person shall have any claim or cause of action against the trustee or other fiduciary or an advisor of a spendthrift trust if that claim or cause of action is based in any way on any person availing themselves of the benefits of this subsection (g);

(ii) For purposes of subdivision (g)(2)(B), an advisor of a spendthrift trust includes, but is not limited to, any person involved in the counseling, drafting, preparation, execution or funding of a spendthrift trust;

(iii) For purposes of subdivision (g)(2)(B)(i), counseling, drafting, preparation, execution or funding of a spendthrift trust includes the counseling, drafting, preparation, execution and funding of a limited partnership, a limited liability company or any other type of entity if interests in the limited partnership, limited liability company or other entity are subsequently transferred to a spendthrift trust;

(3) Notwithstanding subdivision (g)(2)(B), in the same manner as provided other than by this section to trusts in general, a beneficiary, settlor, cotrustee, trust advisor or trust protector retains the right to bring a claim against a trustee or against another cotrustee, trust advisor, trust protector or any of their predecessors; however, no such claim shall arise solely because a person availed themselves, or attempted to avail themselves, of the benefits of this subsection (g);

(4) If more than one transfer of property is made to a spendthrift trust, the subsequent transfer of property to the spendthrift trust shall be disregarded for the purpose of determining whether a person may bring an

action pursuant to this subsection (g) with respect to a prior transfer of property to the spendthrift trust; and any distribution to a beneficiary from the spendthrift trust shall be deemed to have been made from the most recent transfer made to the spendthrift trust;

(5) With the exception of any claim brought pursuant to subdivision (g)(3), notwithstanding any other law, no action of any kind, including, without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, shall be brought at law or in equity against the trustee, other fiduciary or advisor of a spendthrift trust if, as of the date such action is brought, an action by a creditor with respect to a transfer of property to the spendthrift trust would be barred pursuant to this subsection (g); and

(6) This subsection (g) shall not abridge the rights of a creditor, to the extent otherwise provided by this section, to reach the maximum amount that can be distributed to or for the settlor's benefit under a spendthrift trust.

35-15-605. Written statement or list to dispose of items of tangible personal property.

(a)(1) A revocable (living) trust that becomes irrevocable upon the death of its settlor may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the revocable trust, other than money, evidences of indebtedness, documents of title, securities, and property used in a trade or business.

(2) To be effective under this section as evidence of the intended disposition, the writing:

(A) Must:

- (i) Be either in the handwriting of the settlor or signed by the settlor;
- (ii) Be dated; and
- (iii) Describe the items and the beneficiaries with reasonable certainty;

(B) May be prepared before or after the execution of the revocable trust;

(C) May be altered by the settlor after its preparation, provided that the settlor signs and dates the alteration; and

(D) May be a writing that has no significance apart from its effect upon the dispositions made by the revocable trust.

(3) If more than one (1) otherwise effective writings exist or a single writing contains properly signed and dated alterations, the provisions of the most recent writing or alteration revoke any inconsistent provisions of all prior writings.

(b) A trustee is not liable for any distribution of tangible personal property to the apparent beneficiary under the settlor's revocable trust without actual knowledge of the written statement or list, as described in subsection (a), and the trustee has no duty to recover property distributed without knowledge of the written statement or list.

344

35-15-707. Delivery of property by former trustee — Petition for approval of accountings and release and discharge from liability.

(a) Unless a cotrustee remains in office or the court otherwise orders, and until the trust property is delivered to a successor trustee or other person entitled to it, a trustee who has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property.

(b) A trustee who has resigned or been removed shall, within a reasonable time, deliver the trust property within the trustee's possession to the cotrustee, successor trustee, or other person entitled to it.

(c) Prior to delivering the trust property within the trustee's possession to the co-trustee, successor trustee, or other person entitled to it, a trustee who has resigned or been removed shall have the right and authority to petition the court for approval of its accountings and a release and discharge from all liability related to such trust as allowed under § 35-15-205.

35-15-810. Recordkeeping and identification of trust property.

(a) A trustee shall keep adequate records of the administration of the trust.

(b) A trustee shall keep trust property separate from the trustee's own property.

(c) Except as otherwise provided in subsection (d), a trustee shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary.

(d) If the trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of two or more separate trusts.

(e) For all purposes under the Tennessee Uniform Trust Code, when a trust is apportioned into separate shares for a single beneficiary or related beneficiary group, the apportioned separate share of the trust shall be treated as separate trusts even though such share may be commingled with other separate shares for investment and tax reporting purposes as provided in this section.

35-15-813. Duty to inform and report.

(a)(1) A trustee shall keep the beneficiaries of the trust who are current mandatory or permissible distributees of trust income or principal, or both, reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. If a trust is divided into separate shares for the sole benefit of a single beneficiary or a separate group of beneficiaries, the trustee's duty shall apply only to the beneficiary or beneficiaries of the separate share of the trust.

(2) Unless unreasonable under the circumstances, a trustee shall respond in a reasonable amount of time to a qualified beneficiary's request for information related to the administration of the trust. Additionally, a qualified beneficiary shall reimburse the trustee for any reasonable expenses incurred in responding to requests for information.

(3) The requirements of subdivisions (a)(1) and (2) shall also apply to the benefit of anyone who, in a capacity other than that of a fiduciary, as defined

by § 35-15-103, holds a power of appointment.

(b) The trustee of an irrevocable or non-grantor trust within sixty (60) days after the acceptance and funding of a trust, excluding nominal funding for the trust to have corpus or the depositing of insurance policies on the life of a living person, shall notify each current income beneficiary, each vested ultimate beneficiary of a remainder interest and anyone who, in a capacity other than that of a fiduciary, as defined by § 35-15-103, holds a power of appointment, that the trust has been established.

(1) The required notice shall:

(A) Be sent by first class mail or personal delivery; and

(B) Consist of either a complete copy of the document establishing the trust together with the trustee's name, address and telephone number or an abstract of the trust, whichever the trustee, in the trustee's absolute discretion, may choose.

(2) The abstract shall contain:

(A) The name, address and telephone number of each trustee; and

(B) If for a current income beneficiary:

(i) The number of other current income beneficiaries;

(ii) Whether distributions of income are required or discretionary;

(iii) Whether distributions of principal are permitted and, if so, for what purpose or purposes;

(iv) An estimate of the value of the trust at the date of the notice from which distributions may be made; and

(v) An estimate of the income that may be distributable to the beneficiary; and

(C) If for a remainder beneficiary:

(i) The number of other remainder beneficiaries;

(ii) An estimate of the value of the trust at the date of the notice; and

(iii) The conditions which must be met before the beneficiary's share is distributable.

(D) If for anyone who, in a capacity other than that of a fiduciary, as defined by § 35-15-103, holds a power of appointment, all of the information required by subdivisions (b)(2)(A)-(C) necessary or beneficial for that person to effectively determine whether or not to exercise that power of appointment.

(c) Upon the termination of an interest of any one (1) or more of the current income beneficiaries:

(1) The trustee shall similarly notify the income beneficiaries who are takers of the terminated interest of their interest by sending or delivering them the notice required in subsection (b); and

(2) If at that time the period described in subsection (b) has lapsed, the trustee shall similarly notify anyone who, in a capacity other than that of a fiduciary, as defined by § 35-15-103, holds a power of appointment by sending or delivering to such person the notice required in subsection (b).

(d) A beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. A beneficiary, with respect to future reports and other information, may withdraw a waiver previously given. Anyone who, in a capacity other than that of a fiduciary, as defined by § 35-15-103, holds a power of appointment has the same power as provided a beneficiary in this subsection (d) to waive reports and other information and to withdraw a waiver previously given.

(e) Subsections (a) and (b) shall not apply to the extent that the terms of the

trust provide otherwise or the settlor of the trust, or a trust protector or trust advisor under part 12 that holds the power to so direct, directs otherwise in a writing delivered to the trustee.

(f) Subdivision (a)(1) and subsection (b) do not apply to a trust created under a trust agreement that became irrevocable before July 1, 2004. Trust law in effect prior to July 1, 2004, regarding the subject matter of subdivision (a)(1) and subsection (b) shall continue to apply to those trusts.

(g) If the trustee of a trust is bound by any written confidentiality restrictions with respect to an asset of a trust, a trustee may require that any beneficiary who is eligible to receive information pursuant to this or any other section of this title about such asset shall agree in writing to be bound by the confidentiality restrictions that bind the trustee before receiving such information from the trustee.

(h) A trust advisor, trust protector, or other fiduciary designated by the terms of the trust shall keep each excluded fiduciary designated by the terms of the trust reasonably informed about:

(1) The administration of the trust with respect to any specific duty or function being performed by the trust advisor, trust protector, or other fiduciary to the extent that the duty or function would normally be performed by the excluded fiduciary or to the extent that providing such information to the excluded fiduciary is reasonably necessary for the excluded fiduciary to perform its duties; and

(2) Any other material information that the excluded fiduciary would be required to disclose to the specified beneficiaries under subsection (a) regardless of whether the terms of the trust relieve the excluded fiduciary from providing such information to qualified beneficiaries. Neither the performance nor the failure to perform of a trust advisor, trust protector, or other fiduciary designated by the terms of the trust as provided in this subsection (h) shall affect the limitation on the liability of any excluded fiduciary provided by part 12 of this chapter.

35-15-817. Distribution upon termination — Petition for accounting.

(a) Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection within thirty (30) days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection. For the purpose of determining the date a proposed distribution was sent, where exact confirmation is unavailable, it can be assumed it was received five (5) days after the date of mailing.

(b) Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.

(c) Notwithstanding subsections (a) and (b), any qualified beneficiary or trustee may petition the court for a final accounting covering a resigning or removed trustee's period of administration or the period since an accounting was last approved by the court as allowed under § 35-15-205.

35-15-1005. Limitation of action for breach of trust against trustee, former trustee, trust advisor, or trust protector.

(a) A beneficiary, trustee, trust advisor, or trust protector shall not commence a proceeding against a trustee, former trustee, trust advisor, or trust protector for breach of trust more than one (1) year after the earlier of:

(1) The date the beneficiary, trustee, trust advisor, or trust protector or a representative of the beneficiary, trustee, trust advisor, or trust protector was sent information that adequately disclosed facts indicating the existence of a potential claim for breach of trust; or

(2) The date the beneficiary, trustee, trust advisor, or trust protector or a representative of the beneficiary, trustee, trust advisor, or trust protector possessed actual knowledge of facts indicating the existence of a potential claim for breach of trust.

(b) For purposes of this section, facts indicate the existence of a potential claim for breach of trust if the facts provide sufficient information to enable the beneficiary; trustee; trust advisor; trust protector; or the representative of the beneficiary, trustee, trust advisor, or trust protector to have actual knowledge of the potential claim, or have sufficient information to be presumed to know of the potential claim or to know that an additional inquiry is necessary to determine whether there is a potential claim.

(c) If subsection (a) does not apply, a judicial proceeding against a trustee, former trustee, trust advisor, or trust protector for breach of trust must be commenced within three (3) years after the first to occur of:

(1) The removal, resignation, or death of the trustee, former trustee, trust advisor, or trust protector;

(2) The termination of the beneficiary's interest in the trust; or

(3) The termination of the trust.

(d) Notwithstanding subsections (a)-(c), no trustee, trust advisor, or trust protector may commence a proceeding against a trustee or a former trustee if, under subsection (a), (b), or (c), none of the beneficiaries would be entitled to commence a proceeding against a trustee or a former trustee for a breach of trust.

(e) Notwithstanding subsections (a)-(c), no beneficiary, trustee, trust advisor, or trust protector may commence a proceeding against a trustee or former trustee for any matter covered by a final accounting approved by the court under § 35-15-205.

35-15-1301. Special purpose entity.

(a) As used in this part:

(1) "Corporate trustee" means a Tennessee trust company, a Tennessee bank with trust powers, or a national bank with trust powers and with a physical presence in Tennessee;

(2) "Department" means the department of financial institutions;

(3) "Designated ancestor" means one (1) or more ancestors of the family designated as such in the entity's governing documents. A designated ancestor may be either living or deceased. If two (2) designated ancestors are designated, they must be or have been spouses to each other, and if more than such first two (2) designated ancestors are designated, each such additional designated ancestor must be or have been a spouse of either of the first two (2) designated ancestors;

- (4) "Entity" means a corporation or a limited liability company;
- (5)(A) "Family member" means a designated ancestor and:
 - (i) An individual within the twelfth degree of lineal kinship of a designated ancestor;
 - (ii) An individual within the eleventh degree of collateral kinship of a designated ancestor;
 - (iii) A spouse or former spouse of a designated ancestor or of an individual defined as a family member in subdivision (a)(5)(A) or (a)(5)(B); and
 - (iv) An individual who is a relative of a spouse or former spouse specified in subdivision (a)(5)(C) who is within the fifth degree of lineal or collateral kinship of the spouse or former spouse.
- (B) For purposes of determining whether a person is a family member as defined in this subdivision (a)(5):
 - (i) A legally adopted person shall be treated as a natural child of the adoptive parents;
 - (ii) A stepchild shall be treated as a natural child of the individual who is or was the stepparent of that child;
 - (iii) A foster child, or an individual who was a minor when an adult became the individual's legal guardian, shall be treated as a natural child of the adult appointed as foster parent or guardian;
 - (iv) A child of a spouse or former spouse of an individual shall be treated as a natural child of that individual;
 - (v) Degrees are calculated by adding the number of steps from a relevant designated ancestor through each individual to the family member either directly, in case of lineal kinship, or through a designated ancestor, in the case of collateral kinship; and
 - (vi) A person who was a family member at the time of the special purpose entity's engagement as trust protector or trust advisor shall not cease to be a family member solely due to a death, divorce, or other similar event; and
- (6) "Special purpose entity" means an entity that meets the requirements provided under subsection (b).
- (b) A special purpose entity shall not be subject to chapters 1 and 2 of title 45 regulating fiduciary activity if:
 - (1) The entity is established for the exclusive purpose of acting as a trust protector or trust advisor as defined by § 35-15-1201, or any combination of such purposes;
 - (2) The entity is acting in such capacity solely under the terms of trusts in which the grantor or beneficiary is a family member, and under which a corporate trustee is serving as trustee;
 - (3) The entity is not engaged in trust company business as a private trust company under title 45, chapter 2, part 20, or with the general public as a public trust company;
 - (4) The entity does not hold itself out as being in the business of acting as a fiduciary for hire as either a public or private trust company;
 - (5) The entity files an annual report with the secretary of state and provides a copy to the department;
 - (6) The entity agrees to be subject to examination by the department at the discretion of the department solely for the purpose of determining whether the entity satisfies all requirements for qualification under this

part;

(7) The entity agrees to pay the department the actual expenses of the examination at the time of the examination described in subdivision (b)(6);

(8) The entity does not use the word “trust” or “trustee” in the entity’s name in any manner;

(9) The governing documents of the entity, as such governing documents may be amended from time to time, limit the entity’s authorized activities to the functions permitted to a trust protector or trust advisor, or any combination of such functions, and limit the performance of those functions with respect to trusts in which a grantor or beneficiary of such trust is a family member with respect to a designated ancestor specifically named in the entity’s governing documents;

(10) The entity does not act as a fiduciary other than as provided in this part;

(11) Within thirty (30) days of beginning operations as a trust protector or trust advisor, or any combination thereof, the entity:

(A) Notifies the department of:

(i) Its existence;

(ii) Its capacity to act;

(iii) The name of the corporate trustee for each separate trust for which such entity is engaged as a trust protector or trust advisor; and

(B) Pays a one-time initial fee of one thousand dollars (\$1,000); and

(12) The entity submits annually to the department, no later than April 15 and no earlier than January 1:

(A) An annual fee of one thousand dollars (\$1,000);

(B) An updated list of the name of the corporate trustee for each separate trust for which such entity is engaged as a trust protector or trust advisor; and

(C) A certification to the department in which:

(i) The corporate trustee certifies that it is the corporate trustee of the applicable trust; and

(ii) The entity certifies that it is acting as a trust protector or trust advisor for the applicable trust, and that such entity’s actions are in compliance with this part.

36-1-102. Part definitions.

As used in this part, unless the context otherwise requires:

(1)(A) For purposes of terminating the parental or guardian rights of a parent or parents or a guardian or guardians of a child to that child in order to make that child available for adoption, “abandonment” means that:

(i) For a period of four (4) consecutive months immediately preceding the filing of a proceeding, pleading, petition, or any amended petition to terminate the parental rights of the parent or parents or the guardian or guardians of the child who is the subject of the petition for termination of parental rights or adoption, that the parent or parents or the guardian or guardians either have failed to visit or have failed to support or have failed to make reasonable payments toward the support of the child;

(ii)(a) The child has been removed from the home or the physical or legal custody of a parent or parents or guardian or guardians by a

court order at any stage of proceedings in which a petition has been filed in the juvenile court alleging that a child is a dependent and neglected child, and the child was placed in the custody of the department or a licensed child-placing agency;

(b) The juvenile court found, or the court where the termination of parental rights petition is filed finds, that the department or a licensed child-placing agency made reasonable efforts to prevent removal of the child or that the circumstances of the child's situation prevented reasonable efforts from being made prior to the child's removal; and

(c) For a period of four (4) months following the physical removal, the department or agency made reasonable efforts to assist the parent or parents or the guardian or guardians to establish a suitable home for the child, but that the parent or parents or the guardian or guardians have not made reciprocal reasonable efforts to provide a suitable home and have demonstrated a lack of concern for the child to such a degree that it appears unlikely that they will be able to provide a suitable home for the child at an early date. The efforts of the department or agency to assist a parent or guardian in establishing a suitable home for the child shall be found to be reasonable if such efforts equal or exceed the efforts of the parent or guardian toward the same goal, when the parent or guardian is aware that the child is in the custody of the department;

(iii) A biological or legal father has either failed to visit or failed to make reasonable payments toward the support of the child's mother during the four (4) months immediately preceding the birth of the child; provided, that in no instance shall a final order terminating the parental rights of a parent as determined pursuant to this subdivision (1)(A)(iii) be entered until at least thirty (30) days have elapsed since the date of the child's birth;

(iv) A parent or guardian is incarcerated at the time of the institution of an action or proceeding to declare a child to be an abandoned child, or the parent or guardian has been incarcerated during all or part of the four (4) months immediately preceding the institution of such action or proceeding, and either has failed to visit or has failed to support or has failed to make reasonable payments toward the support of the child for four (4) consecutive months immediately preceding such parent's or guardian's incarceration, or the parent or guardian has engaged in conduct prior to incarceration that exhibits a wanton disregard for the welfare of the child. If the four-month period immediately preceding the institution of the action or the four-month period immediately preceding such parent's incarceration is interrupted by a period or periods of incarceration, and there are not four (4) consecutive months without incarceration immediately preceding either event, a four-month period shall be created by aggregating the shorter periods of nonincarceration beginning with the most recent period of nonincarceration prior to commencement of the action and moving back in time. Periods of incarceration of less than seven (7) days duration shall be counted as periods of nonincarceration. Periods of incarceration not discovered by the petitioner and concealed, denied, or forgotten by the parent shall also be counted as periods of nonincarceration. A finding that the parent

has abandoned the child for a defined period in excess of four (4) months that would necessarily include the four (4) months of nonincarceration immediately prior to the institution of the action, but which does not precisely define the relevant four-month period, shall be sufficient to establish abandonment; or

(v) The child, as a newborn infant aged seventy-two (72) hours or less, was voluntarily left at a facility by such infant's mother pursuant to § 68-11-255; and, for a period of thirty (30) days after the date of voluntary delivery, the mother failed to visit or seek contact with the infant; and, for a period of thirty (30) days after notice was given under § 36-1-142(e), and no less than ninety (90) days cumulatively, the mother failed to seek contact with the infant through the department or to revoke her voluntary delivery of the infant;

(B) For purposes of this subdivision (1), "token support" means that the support, under the circumstances of the individual case, is insignificant given the parent's means;

(C) For purposes of this subdivision (1), "token visitation" means that the visitation, under the circumstances of the individual case, constitutes nothing more than perfunctory visitation or visitation of such an infrequent nature or of such short duration as to merely establish minimal or insubstantial contact with the child;

(D) For purposes of this subdivision (1), "failed to support" or "failed to make reasonable payments toward such child's support" means the failure, for a period of four (4) consecutive months, to provide monetary support or the failure to provide more than token payments toward the support of the child. That the parent had only the means or ability to make small payments is not a defense to failure to support if no payments were made during the relevant four-month period;

(E) For purposes of this subdivision (1), "failed to visit" means the failure, for a period of four (4) consecutive months, to visit or engage in more than token visitation. That the parent had only the means or ability to make very occasional visits is not a defense to failure to visit if no visits were made during the relevant four-month period;

(F) Abandonment may not be repented of by resuming visitation or support subsequent to the filing of any petition seeking to terminate parental or guardianship rights or seeking the adoption of a child;

(G) "Abandonment" and "abandonment of an infant" do not have any other definition except that which is set forth in this section, it being the intent of the general assembly to establish the only grounds for abandonment by statutory definition. Specifically, it shall not be required that a parent be shown to have evinced a settled purpose to forego all parental rights and responsibilities in order for a determination of abandonment to be made. Decisions of any court to the contrary are hereby legislatively overruled;

(H) Every parent who is eighteen (18) years of age or older is presumed to have knowledge of a parent's legal obligation to support such parent's child or children; and

(I) For purposes of this subdivision (1), it shall be a defense to abandonment for failure to visit or failure to support that a parent or guardian's failure to visit or support was not willful. The parent or guardian shall bear the burden of proof that the failure to visit or support

was not willful. Such defense must be established by a preponderance of evidence. The absence of willfulness is an affirmative defense pursuant to Rule 8.03 of the Tennessee Rules of Civil Procedure;

(2) "Abandonment of an infant" means, for purposes of terminating parental or guardian rights, "abandonment" of a child under one (1) year of age;

(3) "Adopted person" means:

(A) Any person who is or has been adopted under this part or under the laws of any state, territory, or foreign country; and

(B) For purposes of the processing and handling of, and access to, any adoption records, sealed adoption records, sealed records, post-adoption records, or adoption assistance records pursuant to this part, "adopted person" also includes a person for whom any of those records is maintained by the court, other persons or entities or persons authorized to conduct a surrender or revocation of surrender pursuant to this part, or which records are maintained by the department, a licensed or chartered child-placing agency, a licensed clinical social worker, or the department of health or other information source, whether an adoption petition was ever filed, whether an adoption order was ever entered, whether the adoption was ever dismissed, whether the adoption was ever finalized, or whether the adoption was attempted or was otherwise never completed due to the abandonment of any necessary activity related to the completion of the adoption;

(4) "Adoption" means the social and legal process of establishing by court order, other than by paternity or legitimation proceedings or by voluntary acknowledgment of paternity, the legal relationship of parent and child;

(5) "Adoption assistance" means the federal or state programs that exist to provide financial assistance to adoptive parents to enable them to provide a permanent home to a special needs child as defined by the department;

(6) "Adoption record" means:

(A)(i) The records, reports, or other documents maintained in any medium by the judge or clerk of the court, or by any other person pursuant to this part who is authorized to witness the execution of surrenders or revocations of surrenders, which records, reports, or documents relate to an adoption petition, a surrender or parental consent, a revocation of a surrender or parental consent, or which reasonably relate to other information concerning the adoption of a person, and which information in such records, reports, or documents exists during the pendency of an adoption or a termination of parental rights proceeding, or which records, reports, or documents exist subsequent to the conclusion of those proceedings, even if no order of adoption or order of dismissal is entered, but which records, reports or documents exist prior to those records, reports, or documents becoming a part of a sealed record or a sealed adoption record pursuant to § 36-1-126; or

(ii) The records, reports, or documents maintained in any medium by the department's social services division, or by a licensed or chartered child-placing agency or licensed clinical social worker, and which records, reports, or documents contain any social, medical, legal, or other information concerning an adopted person, a person who has been placed for adoption or a person for whom adoptive placement activities are currently occurring, and which information in such records, reports,

or documents exists during the pendency of an adoption or termination of parental rights proceeding, or which exists subsequent to the conclusion of those proceedings, even if no order of adoption or dismissal of an adoption has been entered, but which records, reports, or documents exist prior to those records, reports, or documents becoming sealed records or sealed adoption records pursuant to § 36-1-126;

(B) The adoption record is confidential and is not subject to disclosure by the court, by a licensed child-placing agency, by a licensed clinical social worker or by any other person or entity, except as otherwise permitted by this part; however, prior to the record's becoming a sealed record or a sealed adoption record pursuant to § 36-1-126, the adoption record may be disclosed as may be necessary for purposes directly related to the placement, care, treatment, protection, or supervision by the legal custodian, legal guardian, conservator, or other legally authorized caretaker of the person who is the subject of the adoption proceeding, or as may be necessary for the purposes directly related to legal proceedings involving the person who is subject to the jurisdiction of a court in an adoption proceeding or other legal proceeding related to an adoption, including terminations of parental rights, or as may otherwise be necessary for use in any child or adult protective services proceedings concerning the person about whom the record is maintained pursuant to titles 37 and 71;

(C) The adoption record shall not, for purposes of release of the records pursuant to §§ 36-1-127 — 36-1-141, be construed to permit access, without a court order pursuant to § 36-1-138, to home studies or preliminary home studies or any information obtained by the department, a licensed or chartered child-placing agency, a licensed clinical social worker, or other family counseling service, a physician, a psychologist, or member of the clergy, an attorney or other person in connection with a home study or preliminary home study as part of an adoption or surrender or parental consent proceeding or as part of the evaluation of prospective adoptive parents, other than those studies that are expressly included in a report to the court by such entities or persons. Information relating to the counseling of a biological mother regarding crisis pregnancy counseling shall not be included in the adoption record for purposes of release pursuant to this part without a court order pursuant to § 36-1-138;

(7) "Adoptive parent or parents" means the person or persons who have been made the legal parents of a child by the entry of an order of adoption under this part or under the laws of any state, territory or foreign country;

(8) "Adult" means any person who is eighteen (18) years of age or older. An adult may be adopted as provided in this part;

(9) "Aggravated circumstances" means abandonment, abandonment of an infant, aggravated assault, aggravated kidnapping, especially aggravated kidnapping, aggravated child abuse and neglect, aggravated sexual exploitation of a minor, especially aggravated sexual exploitation of a minor, aggravated rape, rape, rape of a child, incest, or severe child abuse, as defined at § 37-1-102;

(10) "Biological parents" means the woman and man who physically or genetically conceived the child who is the subject of the adoption or termination proceedings or who conceived the child who has made a request for information pursuant to this part;

(11) "Biological relative" means:

(A) For adopted persons for whom any adoption records, sealed adoption records, sealed records, or post-adoption records are maintained: the biological parents or child of an adopted person or person for whom any adoption record, sealed record, sealed adoption record or post-adoption record is maintained, the brothers or sisters of the whole or half blood, the blood grandparents of any degree, the blood aunts or uncles, or the blood cousins of the first degree, of such persons; and

(B) For persons about whom any background information is sought as part of the surrender or parental consent process: the biological parents of the child, the brothers or sisters of the whole or half blood, the blood grandparents of any degree, or the blood aunts or uncles;

(12) “Chartered child-placing agency” means an agency that had received a charter from the state of Tennessee through legislative action or by incorporation for the operation of an entity or a program of any type that engaged in the placement of children for foster care or residential care as part of a plan or program for which those children were or could have been made available for adoptive placement and that may have, at sometime during its existence, become subject to any licensing requirements by the department or its predecessors;

(13) “Child” or “children” means any person or persons under eighteen (18) years of age;

(14) “Child-caring agency” means any agency authorized by law to care for children outside their own homes for twenty-four (24) hours per day;

(15) “Consent” means:

(A) The written authorization to relinquish a child for adoption, which is given by an agency such as the department or a public child care agency of another state or country or licensed child-placing agency of this or another state, which agency has the authority, by court order or by surrender or by operation of law or by any combination of these, to place a child for adoption and to give permission for the adoption of that child by other persons;

(B) The written permission of a parent pursuant to § 36-1-117(f) to permit the adoption of that parent’s child by that parent’s relative or by the parent’s spouse who is the child’s stepparent;

(C) The process as described in § 36-1-117(g) by which a parent co-signs an adoption petition, with the prospective adoptive parents, for the purpose of agreeing to make the child available for adoption by the co-petitioning prospective adoptive parents, and that permits the court to enter an order of guardianship to give the adoptive parents custody and supervision of the child pending the completion or dismissal of the adoption proceedings or pending revocation of the consent by the parent. This process shall be called a “parental consent”;

(D) The permission of a child fourteen (14) years of age or older given to the court, in chambers, before the entry of an order of adoption of such child;

(E) The permission of a guardian ad litem for a disabled child or an adult permitting the adoption of those persons pursuant to the procedures of § 36-1-117(i) and (j);

(F) The sworn, written permission of an adult person filed with the court where the adoption petition is filed that seeks the adoption of the adult; or

(G) The agreement for contact by the parties to the post-adoption records search procedures that may be required in §§ 36-1-127 — 36-1-141;

(16) “Conservator” means a person or entity appointed by a court to provide partial or full supervision, protection, and assistance of the person or property, or both, of a disabled adult pursuant to title 34, chapter 1 or the equivalent law of another state;

(17)(A) “Court” means the chancery or circuit court; provided, that “court” includes the juvenile court for purposes of the authority to accept the surrender or revocation of surrenders of a child and to issue any orders of reference, orders of guardianship, or other orders resulting from a surrender or revocation that it accepts and for purposes of authorizing the termination of parental rights pursuant to § 36-1-113; title 37, chapter 1, part 1; and title 37, chapter 2, part 4;

(B) All appeals of any orders relative to the juvenile court’s actions in taking a surrender or revocation or in terminating parental rights shall be made to the court of appeals as provided by law; or

(C) A juvenile court magistrate, appointed by the juvenile court judge pursuant to title 37, shall have authority to take a surrender of a child and to take a revocation of such surrender;

(18) “Court report” means the report to the adoption or surrender court in response to an order of reference that describes to the court the status of the child and the prospective adoptive parents or the persons to whom the child is surrendered. Such a report may be preliminary, supplementary, or final in nature. The court report shall not include the home study or preliminary home study, but instead shall include a summary of such study;

(19) “Department” means the department of children’s services or any of its divisions or units;

(20) “Eligible person” means, for purposes of §§ 36-1-125 — 36-1-141, a person who is verified by the department as being in the class of individuals who is permitted by this part to receive access to records;

(21) “Final court report” means a written document completed by the department or a licensed child-placing agency or licensed clinical social worker after submission of any prior court reports in response to the court’s order of reference. It gives information concerning the status of the child in the home of the prospective adoptive parents and gives a full explanation to the court of the suitability of the prospective adoptive parent or parents to adopt the child who is the subject of the adoption petition. The final court report is designed to bring the status of the proposed adoptive home and the child up to date immediately prior to finalization of the adoption and should be the last report the court receives before finalization of the adoption by entry of an order of adoption;

(22) “Financially able” means that the petitioners for adoption of a child are able, by use of any and all income and economic resources of the petitioners, including, but not limited to, assistance from public or private sources, to ensure that any physical, emotional, or special needs of the child are met;

(23) “Foster care” has the meaning given to that term in § 37-1-102; provided, that no plan or permanency plan, as defined in § 37-2-402, shall be required in the case of foster care provided by or in any agency, institution or home in connection with an adoption of a child, so long as a petition for the

adoption of that child by an individual or individuals to whom care of that child has been given is filed in a court of competent jurisdiction within six (6) months of the time that child first comes into the care of the agency, institution or home;

(24) "Foster parent" has the meaning given to that term in § 37-1-102;
(25)(A) "Guardian" or "guardians" or "co-guardian" or "co-guardians" means a person or persons or an entity, other than the parent of a child, appointed by a court or defined by law specifically as "guardian" or "co-guardian" or "conservator" to provide supervision, protection for and care for the person or property, or both, of a child or adult;

(B) "Guardian" or "co-guardian" also means a person or entity appointed as guardian or guardians as the result of a surrender, parental consent, or termination of parental rights;

(C) The rights of the individual guardian or co-guardian or conservator of the person of a minor child or of an adult must be terminated by a surrender or court action before an order of adoption can be entered; provided, that an individual or individuals who receives or receive guardianship pursuant to a surrender, parental consent, or termination of parental rights pursuant to this part or title 37 need not give consent to the adoption when that individual is the petitioner in an adoption;

(D) When the department, a licensed child-placing agency, or a child-caring agency is the guardian of the child, its rights must be terminated by court action or it must provide consent as defined in subdivision (15)(A) before an adoption can be ordered;

(26)(A) "Guardianship" or "co-guardianship" means, for purposes of subdivision (24), a person or entity having the status of being a guardian or co-guardian who or which is responsible for the provision of supervision, protection, and assistance to the person of a child under this part or under other law of this or any other jurisdiction;

(B) Guardianship as a result of a surrender, consent, or termination of parental rights pursuant to this part or title 37 or the law of any other jurisdiction may be "complete" or "partial";

(C)(i) A person or entity has "complete" guardianship for the purpose of permitting a court to order an adoption when all necessary parental or guardianship rights have been terminated by surrender, by consent, by waiver of interest, or by involuntary termination of parental rights proceedings by a court or otherwise, and the court or courts with jurisdiction to do so enters an order or orders granting guardianship status to the person or entity;

(ii) Complete guardianship pursuant to a surrender or consent under this part or pursuant to the termination of the rights of a parent or guardian of a child under this part or under title 37, and pursuant to the entry of an order of guardianship as provided in this part, shall entitle the person or entity to the right to care for the child as provided under § 37-1-140 or as otherwise provided by the court order, and shall permit the entity to place the child for adoption and to consent to the adoption, or shall permit the individual to be granted an adoption of the child, and shall authorize the court to proceed with and grant an adoption, without further termination of parental or guardian rights;

(D)(i) A person or entity has "partial guardianship" when a surrender or consent has been received from at least one (1), but not all, parents or

guardians of the child, or when a court-ordered termination of parental or guardianship rights has been obtained against at least one (1), but not all, parents or guardians of the child, and the court has entered an order granting guardianship of the child to the petitioning person or entity, and the remaining parent or guardian of the child has not executed a surrender or consent or the child's parental or guardianship rights have not been terminated by waiver of interest pursuant to this part, court order, or otherwise;

(ii) Partial guardianship obtained pursuant to a surrender or consent or pursuant to an order terminating less than all parental rights, and an order of partial guardianship pursuant to this part or pursuant to title 37 shall entitle the person or entity to provide care, supervision, and protection of the child pursuant to § 37-1-140, or to the extent permitted by the court order granting partial guardianship, but it shall not be effective to allow full consent to an adoption by an entity without termination by surrender or court order or otherwise of the remaining parental or guardianship rights of other parents or guardians, and shall not authorize the court to grant an adoption to an individual until all remaining parental or guardianship rights have been surrendered, terminated, or otherwise ended; provided, that the department or licensed child-placing entity may place a child for adoption with prospective adoptive parents and may consent to the adoption of the child by those prospective adoptive parents when the department or the licensed child-placing agency has partial guardianship, and the prospective adoptive parents then shall be required to obtain complete guardianship of the child by surrender, termination of parental rights, waiver of interest, or parental consent to effect the adoption of the child;

(27) "Home study" means the product of a preparation process in which individuals or families are assessed by themselves and the department or licensed child-placing agency, or a licensed clinical social worker as to their suitability for adoption and their desires with regard to the child they wish to adopt. The home study shall conform to the requirements set forth in the rules of the department and it becomes a written document that is used in the decision to approve or deny a particular home for adoptive placement. The home study may be the basis on which the court report recommends approval or denial to the court of the family as adoptive parents. A court report based upon any home study conducted by a licensed child-placing agency, licensed clinical social worker or the department that has been completed or updated within one (1) year prior to the date of the surrender or order of reference shall be accepted by the court for purposes of §§ 36-1-111 and 36-1-116. The home study shall be confidential, and at the conclusion of the adoption proceeding shall be forwarded to the department to be kept under seal pursuant to § 36-1-126, and shall be subject to disclosure only upon order entered pursuant to § 36-1-138;

(28) "Interstate Compact on the Placement of Children (ICPC)" means §§ 37-4-201 — 37-4-207 relating to the placement of a child between states for the purposes of foster care or adoption. The ICPC is administered in Tennessee by the department through its state office in Nashville;

(29)(A) "Legal parent" means:

(i) The biological mother of a child;

(ii) A man who is or has been married to the biological mother of the child if the child was born during the marriage or within three hundred (300) days after the marriage was terminated for any reason, or if the child was born after a decree of separation was entered by a court;

(iii) A man who attempted to marry the biological mother of the child before the child's birth by a marriage apparently in compliance with the law, even if the marriage is declared invalid, if the child was born during the attempted marriage or within three hundred (300) days after the termination of the attempted marriage for any reason;

(iv) A man who has been adjudicated to be the legal father of the child by any court or administrative body of this state or any other state or territory or foreign country or who has signed, pursuant to §§ 24-7-113, 68-3-203(g), 68-3-302, or 68-3-305(b), an unrevoked and sworn acknowledgment of paternity under Tennessee law, or who has signed such a sworn acknowledgment pursuant to the law of any other state, territory, or foreign country; or

(v) An adoptive parent of a child or adult;

(B) A man shall not be a legal parent of a child based solely on blood, genetic, or DNA testing determining that he is the biological parent of the child without either a court order or voluntary acknowledgement of paternity pursuant to § 24-7-113. Such test may provide a basis for an order establishing paternity by a court of competent jurisdiction, pursuant to the requirements of § 24-7-112;

(C) If the presumption of paternity set out in subdivisions (29)(A)(ii)-(iv) is rebutted as described in § 36-2-304, the man shall no longer be a legal parent for purposes of this chapter and no further notice or termination of parental rights shall be required as to this person;

(30) "Legal relative" means a person who is included in the class of persons set forth in the definition of "biological relative" or "legal parent" and who, at the time a request for services or information is made pursuant to §§ 36-1-127, 36-1-131, and 36-1-133 — 36-1-138 or with reference to a contract for post-adoption contact under § 36-1-145 immediately prior to the execution of a surrender or the entry of an order terminating parental rights, is related to the adopted person by any legal relationship established by law, court order, or by marriage, and includes, a step-parent and the spouse of any legal relative;

(31)(A) "Legal representative" means:

(i) The conservator, guardian, legal custodian, or other person or entity with legal authority to make decisions for an individual with a disability or an attorney-in-fact, an attorney at law representing a person for purposes of obtaining information pursuant to this part, or the legally appointed administrator, executor, or other legally appointed representative of a person's estate; or

(ii) Any person acting under any durable power of attorney for health care purposes or any person appointed to represent a person and acting pursuant to a living will;

(B) For purposes of subdivision (31)(A), "disability" means that the individual is a minor pursuant to any state, territorial, or federal law, or the law of any foreign country, or that the individual has been determined by any such laws to be in need of a person or entity to care for the individual due to that individual's physical or mental incapacity or

infirmity;

(32) “Licensed child-placing agency” means any agency operating under a license to place children for adoption issued by the department, or operating under a license from any governmental authority from any other state or territory or the District of Columbia, or any agency that operates under the authority of another country with the right to make placement of children for adoption and that has, in the department’s sole determination, been authorized to place children for adoption in this state;

(33) “Licensed clinical social worker” means an individual who holds a license as an independent practitioner from the board of social worker certification and licensure pursuant to title 63, chapter 23, and, in addition, is licensed by the department to provide adoption placement services;

(34) “Lineal ancestor” means any degree of grandparent or great-grandparent, either by birth or adoption;

(35) “Lineal descendant” means a person who descended directly from another person who is the biological or adoptive ancestor of such person, such as the daughter of the daughter’s mother or granddaughter of the granddaughter’s grandmother;

(36) “Order of reference” means the order from the court where the surrender is executed or filed or where the adoption petition is filed that directs the department or a licensed child-placing agency or licensed clinical social worker to conduct a home study or preliminary home study or to complete a report of the status of the child who is or may be the subject of an adoption proceeding, and that seeks information as to the suitability of the prospective adoptive parents to adopt a child;

(37) “Parent” or “parents” means any biological, legal, adoptive parent or parents or, for purposes of §§ 36-1-127 — 36-1-141, stepparents;

(38) “Parental consent” means the consent described in subdivision (15)(C);

(39) “Parental rights” means the legally recognized rights and responsibilities to act as a parent, to care for, to name, and to claim custodial rights with respect to a child;

(40) “Physical custody” means physical possession and care of a child. “Physical custody” may be constructive, as when a child is placed by agreement or court order with an agency, or purely physical, as when any family, including a formal or informal foster family, has possession and care of a child, so long as such possession was not secured through a criminal act. An agency and a family may have physical custody of the same child at the same time;

(41) “Post-adoption record” means:

(A) The record maintained in any medium by the department, separately from the sealed record or sealed adoption record and subsequent to the sealing of an adoption record or that is maintained about any sealed record or sealed adoption record. The post-adoption record contains information, including, but not limited to, adopted persons or the legal or biological relatives of adopted persons, or about persons for whom sealed records or sealed adoption records are maintained, or about persons who are seeking information about adopted persons, or persons on whom a sealed record or sealed adoption record is maintained. The post-adoption record contains information concerning, but not limited to, the contact veto registry established by this part, the written inquiries from persons

requesting access to records, the search efforts of the department pursuant to the requirements of the contact veto process, the response to those search efforts by those persons sought, information that has been requested to be transmitted from or on behalf of any person entitled to access to records pursuant to this part, any updated medical information gathered pursuant to this part, court orders related to the opening of any sealed adoption records or sealed records, and personal identifying information concerning any persons subject to this part;

(B) The limited record maintained by the licensed or chartered child-placing agency or a licensed clinical social worker pursuant to § 36-1-126(b)(2), that indicates the child's date of birth, the date the agency received the child for placement, from whom the child was received and such person's last known address, with whom the child was placed and such person's or entity's last known address, and the court in which the adoption proceeding was filed and the date the adoption order was entered or the adoption petition dismissed; and

(C) This record is confidential and shall be opened only as provided in this part;

(42)(A) "Preliminary home study" means an initial home study conducted prior to or, in limited situations, immediately after, the placement of a child with prospective adoptive parents who have not previously been subject to a home study that was conducted or updated not less than six (6) months prior to the date a surrender is sought to be executed to the prospective adoptive parents or prior to the date of the filing of the adoption petition;

(B) The preliminary home study is designed to obtain an early and temporary initial assessment of the basic ability of prospective adoptive parents to provide adequate care for a child who is proposed to be adopted by those prospective adoptive parents, and is utilized only for the purpose of approval of surrenders or for purposes of responding to an order of reference pursuant to § 36-1-116(e)(2), or for purposes of entering a guardianship order under § 36-1-116(f)(3);

(C) The preliminary home study shall consist of a minimum of two (2) visits with the prospective adoptive parents, at least one (1) of which shall be in the home of the prospective adoptive parents, and the study shall support the conclusion that no apparent reason exists why the prospective adoptive parents would not be fit parents for the child who is the subject of the adoption. To be valid for use as the basis for a court report in connection with a surrender or a parental consent, the preliminary home study must have been completed or updated within thirty (30) days prior to the date the surrender is accepted or the parental consent is executed or confirmed or the guardianship order is entered. The home study shall be confidential, and, at the conclusion of the adoption proceeding, shall be forwarded to the department to be kept under seal pursuant to § 36-1-126, and shall be subject to disclosure only upon order entered pursuant to § 36-1-138;

(43) "Prospective adoptive parents" means a nonagency person or persons who are seeking to adopt a child and who have made application with a licensed child-placing agency or licensed clinical social worker or the department for approval, or who have been previously approved, to receive a child for adoption, or who have received or who expect to receive a surrender of a child, or who have filed a petition for termination or for

adoption;

(44) “Putative father” means a biological or alleged biological father of a child who, at the time of the filing of the petition to terminate the parental rights of such person, or if no such petition is filed, at the time of the filing of a petition to adopt a child, meets at least one (1) of the criteria set out in § 36-1-117(c), has not been excluded by DNA testing as described in § 24-7-112 establishing that he is not the child’s biological father or that another man is the child’s biological father, and is not a legal parent;

(45) “Related” means grandparents or any degree of great-grandparents, aunts or uncles, or any degree of great-aunts or great-uncles, or step-parent, or cousins of the first degree, or first cousins once removed, or any siblings of the whole or half degree or any spouse of the above listed relatives;

(46)(A) “Sealed adoption record” means:

(i) The adoption record as it exists subsequent to its transmittal to the department, or subsequent to its sealing by the court, pursuant to the requirements of § 36-1-126; or

(ii) The limited record maintained by the licensed or chartered child-placing agency or a licensed clinical social worker pursuant to § 36-1-126(b)(2);

(B) This record is confidential and shall be opened only as provided in this part;

(C) The sealed adoption record shall not, for purposes of release of the records pursuant to §§ 36-1-127 — 36-1-141, be construed to permit access, without a court order pursuant to § 36-1-138, to home studies or preliminary home studies or any information obtained by the department, a licensed or chartered child-placing agency, a licensed clinical social worker, or other family counseling service, a physician, a psychologist, or member of the clergy, an attorney or other person in connection with a home study or preliminary home study as part of an adoption or surrender or parental consent proceeding or as part of the evaluation of prospective adoptive parents, other than those studies that are expressly included in a report to the court by such entities or persons. Information relating to the counseling of a biological mother regarding crisis pregnancy counseling shall not be included in the adoption record for purposes of release pursuant to this part without a court order pursuant to § 36-1-138;

(47)(A) “Sealed record” means:

(i) Any records, reports, or documents that are maintained at any time by a court, a court clerk, a licensed or chartered child-placing agency, licensed clinical social worker, the department, the department of health, or any other information source concerning the foster care or agency care placement, or placement for adoption, of a person by any branch of the Tennessee children’s home society authorized by Public Chapter 113 (1919); or

(ii) Any records, reports, or documents maintained by a judge, a court clerk, the department, a licensed or chartered child-placing agency, a licensed clinical social worker, the department of health, or any other information source that consist of adoption records or information about an adoption proceeding or a termination of parental rights proceeding about an adopted person, or that contain information about a person who was placed for adoption but for whom no adoption order was entered or for whom an adoption proceeding was dismissed or for whom

an adoption was not otherwise completed, or that contain information concerning persons in the care of any person or agency, and which records have otherwise been treated and maintained by those persons or entities under prior law, practice, policy, or custom as confidential, nonpublic adoption records, sealed adoption records, or post-adoption records of the person, or that may be otherwise currently treated and maintained by those persons or entities as confidential, nonpublic adoption records, sealed adoption records or post-adoption records of the person; or

(iii) The limited record maintained by the licensed or chartered child-placing agency or a licensed clinical social worker pursuant to § 36-1-126(b)(2);

(B) This record is confidential and shall be opened only as provided in this part;

(C) The sealed record shall not, for purposes of release of the records pursuant to §§ 36-1-127 — 36-1-141, be construed to permit access, without a court order pursuant to § 36-1-138, to home studies or preliminary home studies or any information obtained by the department, a licensed or chartered child-placing agency, a licensed clinical social worker, or other family counseling service, a physician, a psychologist, or member of the clergy, an attorney or other person in connection with a home study or preliminary home study as part of an adoption or surrender or parental consent proceeding or as part of the evaluation of prospective adoptive parents, other than those studies that are expressly included in a report to the court by such entities or persons. Information relating to the counseling of a biological mother regarding crisis pregnancy counseling shall not be included in the adoption record for purposes of release pursuant to this part without a court order pursuant to § 36-1-138;

(48) “Sibling” means anyone having a sibling relationship;

(49) “Sibling relationship” means the biological or legal relationship between persons who have a common biological or legal parent;

(50) “Surrender” means a document executed under § 36-1-111, or under the laws of another state or territory or country, by the parent or guardian of a child, by which that parent or guardian relinquishes all parental or guardianship rights of that parent or guardian to a child, to another person or public child care agency or licensed child-placing agency for the purposes of making that child available for adoption; and

(51)(A) “Surrogate birth” means:

(i) The union of the wife’s egg and the husband’s sperm, which are then placed in another woman, who carries the fetus to term and who, pursuant to a contract, then relinquishes all parental rights to the child to the biological parents pursuant to the terms of the contract; or

(ii) The insemination of a woman by the sperm of a man under a contract by which the parties state their intent that the woman who carries the fetus shall relinquish the child to the biological father and the biological father’s wife to parent;

(B) No surrender pursuant to this part is necessary to terminate any parental rights of the woman who carried the child to term under the circumstances described in this subdivision (51) and no adoption of the child by the biological parent or parents is necessary;

(C) Nothing in this subdivision (51) shall be construed to expressly authorize the surrogate birth process in Tennessee unless otherwise approved by the courts or the general assembly.

36-1-104. Withholding of material information concerning the status of the parents or guardian of a child subject to surrender, termination of parental rights or adoption— Misdemeanor.

Any person who, upon request by any party to an adoption or the party's agent or attorney, a licensed child-placing agency or licensed clinical social worker, the department, or the court, knowingly and willfully withholds any information related to the child who is the subject of a surrender, a termination of parental rights, or an adoption proceeding, or who knowingly and willfully withholds any material information concerning the identity, status, or whereabouts of the child's legal parent or parents, putative father, or guardian or who knowingly and willfully gives false information concerning the child or the identity, status, or whereabouts of the child's legal parent, putative father, or guardian commits a Class A misdemeanor. Nothing in this section shall be construed to require a person or agency to disclose any confidential or privileged information protected by any state or federal law or regulation.

36-1-108. Entities authorized to place children for adoption — Advisory and agency capacity authorized — Injunction to stop illegal payments.

(a)(1) No person, corporation, agency, or other entity, except the department or a licensed child-placing agency or licensed clinical social worker, as defined in § 36-1-102, shall engage in the placement of children for adoption; provided, that this section shall not be construed to prohibit any person from advising parents of a child or prospective adoptive parents of the availability of adoption, or from acting as an agent or attorney for the parents of a child or prospective adoptive parents in making necessary arrangements for adoption so long as no remuneration, fees, contributions, or things of value are given to or received from any person or entity for such service other than usual and customary legal and medical fees in connection with the birth of the child or other pregnancy-related expenses, or for counseling for the parents and/or the child, and for the legal proceedings related to the adoption.

(2) Only a licensed child-placing agency, as defined in § 36-1-102, a licensed clinical social worker, as defined in § 36-1-102, prospective adoptive parents, or a lawyer who is subject to the Tennessee supreme court rules regarding lawyer advertising may advertise for the placement of children for adoption in this state. In order to advertise for the placement of children for adoption in Tennessee, out-of-state licensed child placing agencies, licensed clinical social workers or lawyers must:

(A) Be authorized to do business in this state under respective licensing laws; and

(B) Maintain a physical office within this state or incur expenses involved in the transportation of a licensing consultant to the closest physical office of the agency, social worker or lawyer.

(3) Any advertisement in this state for the placement of children for adoption in another state by an agency or individual not licensed or

authorized to do such business in this state shall clearly state that the agency or individual is not licensed or authorized to do such business in this state.

(b) "Placement of a child or children for adoption" means, for purposes of this section and § 36-1-109 and for licensing purposes in title 37, chapter 5, part 5, and for § 37-5-507, that a person, corporation, agency, or other entity is employed, contracted, or engaged, in any manner for any remuneration, fee, contribution, or thing of value, of any type by, or on behalf of, any person:

(1) In the selection of prospective adoptive parents for a child by determining the relative qualifications of prospective adoptive parents in a decision by that person, corporation, agency, or other entity to place any child or children, including specifically, but not limited to, the preparation of home studies, preliminary home studies, court reports for surrenders or adoptions, or the provision of supervision of a child in an adoptive home as part of the adoptive process; or

(2)(A) In the business of arranging services or assistance directed primarily, and not as an incidental part of its primary business, toward bringing to or placing with prospective adoptive parents a child or children for the purpose of foster care leading to adoption or as an adoptive placement for a child or children, including, but not limited to, advertising for such services, accepting clients for a fee, or providing any placing services for a fee;

(B) Nothing in subdivision (b)(2)(A) shall include the provision of reasonable and necessary legal services related to the adoption proceedings, or medical or counseling services for the child or the parent in connection with the child's birth or in connection with the parent's decision to relinquish the child for adoption or for counseling services for the prospective adoptive parents.

(c)(1) Any court of competent jurisdiction, upon the filing of a sworn complaint by the department or by a licensed child-placing agency, or by any person aggrieved, may temporarily enjoin or restrain any person, corporation, agency, or other entity from engaging or attempting to engage in placing children for adoption in violation or in threatened violation of this part or title 71, chapter 3, part 5, and upon final hearing, if the court determines that there has been a violation, or threatened violation, thereof, the injunction shall be made permanent.

(2) If the court finds that any person, corporation, agency, or other entity has engaged in the illegal placement of children for adoption, that person, corporation, agency, or other entity shall be liable for all the costs of the legal proceedings and for all attorney fees for private persons or private agencies who brought the action, or for the cost of attorney and staff time for the department, involved in the proceeding.

(d)(1) In order to allow the prospective adoptive parents to have information available to them to permit informed choices regarding the employment of persons or entities involved in the placement of children, or in counseling, or in the provision of legal services, the department shall collect the information concerning fees or other costs charged by licensed child-placing agencies, licensed clinical social workers, attorneys, and counseling services that are disclosed in accordance with §§ 36-1-116(b)(16) and 36-1-120(b).

(2) This information shall be used by the department to develop an informational database in order for the department to provide, upon request

of prospective adoptive parents or other interested persons, information concerning fees charged for home studies, placement services, counseling and legal fees. Such information shall be made available by the department in written form to any person so requesting. No employee of the department shall make any recommendation regarding or comment upon any information concerning such attorney, licensed child-placing agency or licensed clinical social worker.

(3) The department is specifically authorized to promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to regulate fees charged by licensed child-placing agencies and licensed clinical social workers or their practices, if it determines that the practices of those licensed child-placing agencies or licensed clinical social workers demonstrate that the fees charged are excessive or that any of the agency's practices are deceptive or misleading; provided, that such rules regarding fees shall take into account the use of any sliding fee by an agency or licensed clinical social worker that or who uses a sliding fee procedure to permit prospective adoptive parents of varying income levels to utilize the services of such agencies or persons.

(4) The department shall promulgate rules pursuant to the Uniform Administrative Procedures Act to require that all licensed child-placing agencies and licensed clinical social workers provide written disclosures to all prospective adoptive parents of any fees or other charges for each service performed by the agency or person, and file an annual report with the department that states the fees and charges for those services, and to require them to inform the department in writing forty (40) days in advance of any proposed changes to the fees or charges for those services.

(5) The department is specifically authorized to disclose to prospective adoptive parents or other interested persons any fees charged by any licensed child-placing agency, licensed clinical social worker, attorney or counseling service or counselor for all legal and counseling services provided by that licensed child-placing agency, licensed clinical social worker, attorney or counseling service or counselor.

36-1-111. Presurrender request for home study or preliminary home study — Surrender of child — Consent for adoption by parent — Effect of Surrender — Form of surrender — Waiver of interest — Interpreter for non-English speaking parents.

(a)(1) Prior to receiving a surrender by a parent of a child or prior to the execution of a parental consent by a parent in a petition for adoption, the prospective adoptive parents shall request a licensed child-placing agency, a licensed clinical social worker, or, if indigent under federal poverty guidelines, the department, to conduct a home study or preliminary home study for use in the surrender, or parental consent proceeding, or in the adoption.

(2) A court report based upon the home study or preliminary home study must be available to the court or, when using a Tennessee surrender form, to the persons under subsection (h), (i), or (j), and, before the surrender to prospective adoptive parents is executed, the court report must be reviewed by the court or persons under those subsections in any surrender proceeding in which the surrender is not made to the department or a licensed

child-placing agency. When a parental consent is executed, pursuant to § 36-1-117(g), the court report based upon the home study or preliminary home study must be filed with the adoption petition, and must be reviewed by the court before the entry of an order of guardianship giving the prospective adoptive parents guardianship of the child.

(3) All court reports submitted under this subsection (a) shall be confidential and shall not be open to inspection by any person except by order of the court entered on the minute book. The court shall, however, disclose to prospective adoptive parents any adverse court reports or information contained therein, but shall protect the identities of any person reporting child abuse or neglect in accordance with law.

(4) A surrendering party shall complete a social and medical history form as promulgated by the department of children's services, or a substantially similar form, and attach the completed and executed form to the surrendering party's pre-surrender information form.

(b)(1) All surrenders must be made in chambers before a judge of the chancery, circuit, or juvenile court except as provided herein, and the court shall advise the person or persons surrendering the child of the right of revocation of the surrender and time for the revocation and the procedure for such revocation.

(2) A surrender form shall be legally sufficient if it contains statements comparable to the "Form of Surrender" set forth in subdivision (b)(3). The information requested on the pre-surrender information forms under subdivisions (b)(4) and (5) shall be collected, to the extent that such information is known to the surrendering or accepting party respectively, on the forms provided in subdivisions (b)(4) and (5) or by a substantially similar method and shall be attached to the surrender form proffered to the judge or officiant for execution.

(3)

TENNESSEE SURRENDER FORM

I, (full name of surrendering party) _____, born (surrendering party's date of birth) _____, sign this surrender to end my parental rights and responsibilities to (full name of child) _____, born (child's date of birth) _____ in (location of child's birth) _____. I am this child's (circle one) mother / father / possible father / guardian.

I surrender my parental rights to and request that this Court give guardianship to (a person/family with a current, approved home study, or a licensed child-placing agency)

_____.
I know I only have three (3) days to change my mind and revoke this decision after I sign this form. This decision may not be changed if I do not revoke this surrender on or before _____ (three days after today, calculated under Tennessee Rule of Civil Procedure 6.01). To revoke, I must sign a revocation form before the Judge or officiant with me now or his or her successor.

I have completed the Surrendering Party Pre-Surrender Information Form. I have provided true and complete answers to all the questions on that form to the best of my knowledge.

I know that I should only sign this form if I want my parental rights

terminated. If I want to talk to my own lawyer before I sign this form, I should tell the Judge or other officiant now and this surrender process will stop. I can talk to my lawyer and then decide if I still want to end my parental rights.

If anyone is putting pressure on me to sign this surrender, or trying to make me sign against my will, or has promised me something I value in order to make me want to sign this surrender, I understand that I should tell the Judge or officiant about that before I sign this form. The Judge or officiant will not allow me to be forced to sign this surrender.

No one is pressuring, threatening, or paying me to get me to sign this form. I believe voluntary termination of my parental rights is in the best interest of my child.

By signing below I voluntarily terminate my parental rights and surrender my child to the person(s) or agency listed above.

This _____ day of _____, 20____.

Surrendering Party's Signature

Judge or Officiant Attestation

I interviewed the surrendering party and witnessed execution of the foregoing surrender as required by T.C.A. § 36-1-111. The surrendering party understands that he/she is surrendering parental rights to this child. There is no reason to believe that this is not a voluntary act.

The Surrendering Party's Pre-Surrender Information Form, the surrendering party's Social and Medical History Form, and if the surrender is to an individual, or individuals, as opposed to an agency, the individual's, or individuals', court report based upon a current and approved home study are attached to this form. The Pre-Surrender Information Form and Social and Medical History Form are properly verified by a notary or I reviewed the information with the surrendering party and he/she has attested before me to the correctness of those forms.

This _____ day of _____, 20____.

Judge or Officiant's Signature

Name and Title: _____

Court or Employing Institution and Location: _____

ACCEPTANCE BY AGENCY or PROSPECTIVE ADOPTIVE PARENT(S)

I/We _____ and _____ individually or I, _____, on behalf of the licensed child-placing agency, _____, hereby accept the surrender of _____ (child) from _____ (surrendering party) and plan to adopt the surrendered child or for an agency, expect and intend to place this child for adoption with an appropriate family. I/We or the undersigned agency have physical custody of this child or will have physical custody upon discharge of this child from a healthcare facility. I/We or the undersigned agency agree(s) to assume responsibility for obtaining guardianship of the surrendered child through a court order within thirty (30) days of the date of the surrender. I/We or the undersigned agency agree(s), to be responsible for the care, custody, financial support, medical care, education, moral, and spiritual training of this child, pending an adoption.

I/We have completed the Accepting Party's Pre-Acceptance Information Form. The information provided in that form is true to the best of my/our

368

knowledge.

This _____ day of _____, 20____.

Signature of Prospective Adoptive Parent

Signature of Prospective Adoptive Parent

Signature of Agency Representative and Title

Judge or Officiant Attestation

I interviewed the accepting parties and witnessed execution of the foregoing acceptance.

The Accepting Party's Pre-Acceptance Information Form and any accepting individual's/individuals' court report based upon a current and approved home study are attached to this form. The Accepting Party's Pre-Acceptance Information Form is properly verified by a notary or I reviewed the information with the accepting parties and they have attested before me to the correctness of the form.

This _____ day of _____, 20____.

Judge or Officiant's Signature

Name and Title: _____

Court or Employing Institution and Location: _____

(4)

SURRENDERING PARTY'S PRE-SURRENDER INFORMATION FORM

STATE OF _____

COUNTY OF _____

Being duly sworn according to law, affiant would state:

1. I am:

a. Mother: _____

(Date of Birth) _____ or

b. Father: _____

(Date of Birth) _____ or

c. Legal Guardian: _____

(Date of Birth) _____ of

2.

a. Child's Name

b. Child's Date of Birth

c. Child's Place of Birth

d. Child's Sex

e. Child's Race

3. This child was born in wedlock [] out of wedlock [] in wedlock but the mother's husband is not the child's biological father [].

4. State the names and relationships of any other legal parents, putative fathers, and legal guardians for this child:

a.

(1) Name _____

(2) Relationship to the child _____

(3) Address _____

(4) City, State, Zip _____

(5) Telephone Number: Home: ____ Work: ____

(6) Other identifying information concerning the above identified other legal or biological parent/legal guardian. _____

b.

(1) Name _____

(2) Relationship to the child _____

(3) Address _____

(4) City, State, Zip _____

(5) Telephone Number: Home: ____ Work: ____

(6) Other identifying information concerning the above identified other legal or biological parent/legal guardian. _____

5. If the above named parties' whereabouts are unknown, please describe why that is the case: _____

6. Is the child or surrendering parent or another legal parent of the child a member of a federally recognized American Indian or Alaskan Native tribe? _____

If "yes," please provide the name and address of the tribe, all available information regarding the tribal membership, including a membership number if there is one, or the basis for the belief that one may be a tribal member. If there is a tribal membership card or tribal enrollment document please provide a copy by attaching it to this form.

7.

a. Will this child be sent out of Tennessee to another state for adoption?

Yes ☐ No ☐

b. If yes, name of state: _____

8. Have you been paid, received, or promised any money or other remuneration or thing of value in connection with the birth of the above-named child or placement of this child for adoption?

Yes ☐ No ☐ If no, go to #9.

If yes, please list the amount paid, to whom the payment was made, who made the payment, when was the payment made, and for what purpose the payment was made:

370

9. Does the child own any real or personal property? Yes ☐ No ☐ If yes, please describe property, its value, and any relevant circumstances:

10.

a. I currently have () legal, () physical, or () legal and physical custody of the child.

b. If someone else has legal or physical custody of the child, please identify the person or agency that holds custody of the child and whether they have legal custody, physical custody, or both.

For a custodian, other than the surrendering party, please list the custodians:

Custodian(s)

Street

City _____, State _____, Zip _____

Telephone Number: Home: ____ Work: ____

11.

a. There may be state assistance-money, classes, health insurance, food aid and such, available to help you if you parent the child yourself.

b. There is counseling available if you want to talk to a counselor about your choice before you sign a surrender form.

c. You can talk to a lawyer who only represents you, if you want to, before you sign a surrender form.

Do you understand that all these things are available? Yes ☐ No ☐

12. Contact Veto.

I understand that information about who I am, where I live, my social and medical history and other similar information will be available to the adopted person when he/she is 21 years old or older if the adopted person asks for the information. Identifying information about me will not be released if I am the victim of rape or incest and that fact is known to DCS and I have not consented to release of the information. Even if the adopted person obtains information about me, I understand that I may direct that the adopted person not be allowed to contact me by registering a "contact veto" on this form or separately with the Tennessee Department of Children's Services at:

Contact Veto Registry
Post Adoption Unit
Tennessee Department of Children's Services
315 Deaderick Street
UBS Tower, 9th Floor
Nashville, TN 37243

I may also change my previously expressed direction regarding contact at the same address. If I am contacted in violation of a contact veto, the adopted person will be guilty of a Class B misdemeanor and I can sue them for injunctive relief and compensatory and punitive damages and attorney's fees.

371

a. Do you want to register a contact veto in order to prevent the adopted person from contacting you in the future? Yes ☐ No ☐.

b. If identifying information about you is going to be released to the adopted person do you want to be notified before the information is released? Yes ☐ No ☐.

c. Please supply a permanent address and telephone number for the Department to use to consult with you regarding release of information about you to the adopted person:

d. Please describe any other directions regarding future contact and or any information you want passed on to the adopted person:

FURTHER, AFFIANT SAITH NOT.

This _____ day of _____, 20____.

Signature: Biological ☐ Legal ☐ Mother _____

Biological ☐ Legal ☐ Father _____

Legal Guardian _____ of

Name of Child

Sworn to and subscribed before me this the _____ day of _____, 20____.

Notary Public

My commission expires: _____

(A notary is necessary if information on this form is not reviewed by and acknowledged before a Judge or officiant.)

(5)

ACCEPTING PARTY'S PRE-ACCEPTANCE INFORMATION FORM

STATE OF _____

COUNTY OF _____

Being duly sworn affiants would state:

1.

a. I am _____, Prospective Adoptive Parent.

b. Prospective Adoptive Parent's Date of Birth

c. Prospective Adoptive Parent's Place of Birth

d. Prospective Adoptive Parent's Marital Status

2.

a. I am _____, Prospective Adoptive Parent.

b. Prospective Adoptive Parent's Date of Birth

c. Prospective Adoptive Parent's Place of Birth

372

d. Prospective Adoptive Parent's Marital Status

Or

3. I am _____, representative of _____ a licensed child placing agency with offices at:

4. The following costs have been paid or promised by _____ (me/us) for activities involving the placement of this child. Please include, amount paid or promised, to whom, by whom, date paid and type of service or cost: _____

5.

a. ____ I/We have physical custody of this child; or

b. ____ I/We will receive physical custody of the child from the parent or legal guardian within five (5) days of this surrender; or

c. ____ I/We have the right to receive physical custody of the child upon his or her release from a hospital or health care facility; or

d. ____ Another person or agency currently has physical control of the child. I/We have presented to the court an affidavit of the person or agency required by T.C.A. § 36-1-111(d)(6) which indicates their waiver of right to custody of the child upon entry of a guardianship order pursuant to T.C.A. § 36-1-136(r).

6. Yes ☐ No ☐. I/We have presented to the court a currently effective or updated home study or preliminary home study of my/our home conducted by a licensed child-placing agency, a licensed clinical social worker, or the Tennessee Department of Children's Services as required by Tennessee law. (Not applicable for agency placements)

7.

a. If the child is to be removed from Tennessee for adoption in another state, will there be compliance with the Interstate Compact on the Placement of Children.

Yes ☐ No ☐ Not Applicable ☐.

b. If yes, who will be responsible for preparing and submitting the ICPC package? _____

FURTHER, AFFIANT SAITH NOT.

This _____ day of _____, 20____.

Signature of Prospective Adoptive Parent

Signature of Prospective Adoptive Parent
OR

Signature of Representative of Agency

Name of Agency _____

Sworn to and subscribed before me this the ____ day of _____, 20____.

Notary Public

My commission expires: _____

(A notary is necessary if information on this form is not reviewed by and acknowledged before a Judge or officiant.)

(6)

REVOCATION OF SURRENDER BY A PARENT OR GUARDIAN

STATE OF _____

COUNTY OF _____

Being duly sworn affiants would state:

1. I am:

a. Mother: _____

b. Father: _____, or

c. Legal Guardian: _____, of:

2.

a. Child's Name: _____

b. Child's Date of Birth: _____

c. Child's Place of Birth: _____

d. Child's Sex: _____

e. Child's Race: _____

3. On (Date) _____, I executed a surrender of my parental or guardianship rights to the child named in #2 to:

a. Prospective Adoptive Parent(s)

b. Licensed Child-Placing Agency

c. Tennessee Department of Children's Services

4. The surrender was executed before:

(Name of Judge or Officiant)

5. I hereby revoke the surrender of the above-named child.

FURTHER, AFFIANT SAITH NOT.

This _____ day of _____, 20____.

Signature:

Biological _____ Legal _____ Mother:

Biological _____ Legal _____ Father:

Legal Guardian:

Sworn to and subscribed before me this _____ day of _____, 20____.

This Revocation of Surrender was received by me on the _____ day
of _____, 20____.

Please Print: _____

Signature: _____

Judge or Officiant

(c) A surrender or parental consent may be made or given to any prospective adoptive parent who has attained eighteen (18) years of age, the department, or a licensed child-placing agency in accordance with this section.

(d)(1) No surrender or any parental consent shall be valid that does not meet the requirements of subdivision (a)(2).

(2) No surrender or parental consent shall be valid that is made prior to the birth of a child, except a surrender executed in accordance with

subsection (h).

(3) No surrender or parental consent shall be valid that is made within three (3) calendar days subsequent to the date of the child's birth, such period to begin on the day following the child's birth; provided, that the court may, for good cause shown, which is entered in an order in the minute book of the court, waive this waiting period.

(4) No surrender or parental consent shall be valid if the surrendering or consenting party states a desire to receive legal or social counseling until such request is satisfied or withdrawn.

(5) Unless the surrender or parental consent is made to the physical custodian or unless the exceptions of subdivision (d)(6) otherwise apply, no surrender or parental consent shall be sufficient to make a child available for adoption in any situation where any other person or persons, the department, a licensed child-placing agency, or other child-caring agency in this state or any state, territory, or foreign country is exercising the right to physical custody of the child under a current court order at the time the surrender is sought to be executed or when a parental consent is executed, or when those persons or entities have any currently valid statutory authorization for custody of the child.

(6) No surrender shall be valid unless the person or persons or entity to whom or to which the child is surrendered or parental consent is given:

(A) Has, at a minimum, physical custody of the child;

(B) Will receive physical custody of the child from the surrendering parent or guardian within five (5) days of the surrender;

(C) Has the right to receive physical custody of the child upon the child's release from a health care facility; or

(D) Has a sworn, written statement from the person, the department, the licensed child-placing agency, or child-caring agency that has physical custody pursuant to subdivision (d)(5), which waives the rights pursuant to that subdivision (d)(5).

(e) [Deleted by 2018 amendment.]

(f) The commissioner, or the commissioner's authorized representatives, or a licensed child-placing agency, through its authorized representatives, may accept the surrender of a child and they shall be vested with guardianship or partial guardianship of the child in accordance with this section and § 36-1-102; provided, that the department or any licensed child-placing agency may refuse to accept the surrender of any child.

(g) In any surrender proceeding, the court or other person authorized herein to conduct a surrender proceeding, and when a parental consent is executed in the adoption petition, the court shall require that the person or persons surrendering the child for adoption or the person or persons giving consent and the person or persons accepting the child through the surrender or receiving parental consent to satisfactorily prove their identities before the surrender is executed or the parental consent is accepted. No surrender or parental consent may be executed in any form in which the identities of the person or persons executing the surrender or parental consent or the person or persons or agencies receiving the surrender or the identity of the child whose name is known are left blank or in any form in which those persons, the child, or agencies are given pseudonyms on the form or in the petition at the time of the execution of the surrender or parental consent.

(h) In cases where the person executing the surrender resides in another

state or territory of the United States, the surrender may be made in accordance with the laws of such state or territory or may be made before the judge or chancellor of any court of record or before the clerk of any court of record of such state or territory and such surrender shall be valid for use in adoptions in this state.

(i) In cases where the surrendering person using the Tennessee form of surrender or the form provided by applicable law resides or is temporarily in a foreign country, the surrender may be made before any officer of the United States armed forces authorized to administer oaths, or before any officer of the United States foreign service authorized to administer oaths. A citizen of a foreign country may, in accordance with the law of the foreign country, execute a surrender of a child that states that all parental rights of that person are being terminated or relinquished by the execution of the document or that the child is being given to an agency or other person for the purposes of adoption.

(j) In cases where the person executing surrender is incarcerated in a state or federal penitentiary, the surrender may be executed before the warden or deputy warden of the penitentiary or a notary public.

(k)(1)(A) When a person executing a surrender is unable to read, read in the English language, see, or otherwise unable to review and comprehend the surrender form and attachments offered for the person's signature or provided on the person's behalf, the person shall be provided with appropriate and sufficient assistance to make the documents and attachments understandable to the person both before and during the surrender hearing. The accepting party shall be responsible for payment of the cost of such interpreter or assistance if the surrendering party requires such assistance.

(B)(i) The court, or other persons authorized by this part to accept surrenders, shall personally verify under oath by the surrendering or consenting person who has provided the information required surrender or parental consent process pursuant to this part, that the parent or guardian agrees with the information provided in the forms and attachments and that such person does accept the surrender of the subject child.

(ii) The pre-surrender information forms for the birth parent and accepting party and all required attachments must be attached to the surrender or parental consent when the surrender and acceptance are executed and maintained with the surrender or parental consent form by the court or the court clerk, or person authorized by this part to accept surrenders, and transmitted to the department as otherwise required by this part.

(C)(i) In all other respects, the court, or other persons authorized by this part to accept surrenders, must witness the actual act of surrender, or must confirm the parental consent, by verifying directly with the parent or guardian the parent's or guardian's understanding and willingness to terminate parental rights and, by witnessing the parent's or guardian's signature on the surrender form, or by questioning the parent on the matters required by this part before the entry of an order of confirmation of the parental consent.

(ii) The court may not accept any surrenders executed prior to its approval of the surrender that relinquish the parent's or guardian's rights, nor may it enter any orders confirming a parental consent, based

upon any written statement of the parent agreeing to relinquish the parent's rights to the child, except as may be otherwise specifically provided by this part.

(iii) The execution of the surrender or parental consent shall occur in private in the chambers of the court or in another private area, and in the presence of the surrendering or consenting person's legal counsel if legal counsel has been requested by the surrendering or consenting person. In the discretion of the court or other person conducting the surrender or parental consent proceeding, the court's officer or other employee may be present.

(D) For surrenders taken pursuant to subsection (h), (i) or (j), the information required by this part to be supplied by the prospective adoptive parents, the department, or a licensed child-placing agency and the acceptance of a surrender by the prospective adoptive parents or the department or the licensed child-placing agency may be made by affidavit contained with the Tennessee surrender forms.

(2) [Deleted by 2018 amendment.]

(3) [Deleted by 2018 amendment.]

(4) [Deleted by 2018 amendment.]

(l)(1) In the case of a surrender directly to prospective adoptive parents, if the person surrendering the child desires to have counseling prior to execution of the surrender and the child is being surrendered directly to the prospective adoptive parents, the prospective adoptive parents shall, if so requested by the surrendering person or persons, compensate a licensed child-placing agency, a licensed clinical social worker, or the department for such counseling, which must be completed before the surrender can be executed.

(2) If the person surrendering the child states a desire to have legal counseling prior to or during the execution of a surrender directly to the prospective adoptive parents, the prospective adoptive parents shall, if so requested by the surrendering person or persons, compensate the attorney for such counseling sought, which must be completed before the surrender can be executed.

(3) This subsection (l) shall also apply to the use of parental consents pursuant to § 36-1-117(g) prior to entry of the order of confirmation.

(4) The payment of compensation by the prospective adoptive parents shall not establish any professional/client relationship between the prospective adoptive parents and the counselor or attorney providing services under subdivisions (l)(1) and (2).

(5) The department shall, by rule, establish the form of the certification required by this section, including the counseling criteria that must be met with the surrendering parent as part of the certification.

(m) Before the surrender is received and before an order of guardianship is entered based upon a parental consent, the person or persons to whom the child is to be surrendered or the persons to whom a parental consent is given, other than the department or a licensed child-placing agency, shall present with the surrender executed in this state or on a Tennessee form at the time of the execution of the surrender or before confirmation of a parental consent by the court, a court report based upon a currently effective or updated home study or preliminary home study conducted by a licensed child-placing agency, a licensed clinical social worker, or the department.

- (n) [Deleted by 2018 amendment.]
- (o) [Deleted by 2018 amendment.]
- (p)(1)(A) The person or persons executing the surrender and the person or persons, the local representative of the department or the local representative of the licensed child-placing agency to whom the child is surrendered shall receive certified copies of the original surrender from the clerk of the court immediately upon the conclusion of the surrender proceeding.
 - (B) Costs of all certified copies provided under this subdivision (p)(1) shall be taxed only to the person or persons receiving the surrender, the department, or the licensed child-placing agency.
- (2)(A) The original of the surrender executed before the court shall be entered on a special docket for surrenders and shall be styled: "In Re: (Child's Name)," and shall be permanently filed by the court in a separate file designated for that purpose maintained by the judge, or the judge's court officer, who accepted the surrender and shall be confidential and shall not be inspected by anyone without the written approval of the court where the file is maintained or by a court of competent jurisdiction with domestic relations jurisdiction if the file is maintained elsewhere. There will be no court costs or litigation tax assessed for the surrender. Within five (5) days, a certified copy of the surrender shall be sent by the clerk or the court to the adoptions unit in the state office of the department in Nashville.
 - (B)(i) The original of the surrender executed before the persons authorized under subsections (h) and (i), or, in out-of-state correctional facilities under subsection (j), shall be maintained in a separate file designated for that purpose, which shall be confidential and shall not be inspected by anyone else without the written approval of a court with domestic relations jurisdiction where the file is maintained.
 - (ii) For surrenders executed under subsection (j) in federal and state correctional facilities in Tennessee, the original shall be filed in a secure file in the office of the warden, which shall not be open to inspection by any other person, and after ten (10) days from the date of the surrender, the original shall be sent to the adoptions unit in the state office of the department in Nashville and a copy shall be maintained by the warden.
- (3)(A) The clerk of the court, or the department as the case may be, upon request, shall send certified copies of the original surrender to:
 - (i) The court where the adoption petition or where the petition to terminate parental rights is filed;
 - (ii) A party who is petitioning for an adoption in cases where the child was not placed by the department or a licensed child-placing agency; provided, however, where the child was placed by the department or a licensed child-placing agency, the parties petitioning for an adoption or termination of parental rights are not entitled to copies of the surrenders made to the department or a licensed child-placing agency; and
 - (iii) The department's county office or a licensed child-placing agency or licensed clinical social worker that or who is performing any service related to an adoption or that has intervened in an adoption proceeding.
- (B) Costs of providing certified copies under this subdivision (p)(3) may be taxed or charged to the person, the department, or the licensed child-placing agency that requests the certified copies, except where the department, the licensed child-placing agency, or licensed clinical social

worker is responding to an order of reference from a court or where the department, licensed child-placing agency, or licensed clinical social worker is conducting any investigation related to the adoption or to the child's welfare.

(q)(1) The party to whom the child is surrendered pursuant to subsection (h), (i) or (j) shall file a certified copy of the surrender of a child with the chancery, circuit, or juvenile court in Tennessee where the child or the prospective adoptive parents reside, or with the court in which an adoption petition is filed in Tennessee, within fifteen (15) days of the date the surrender is actually received, or within fifteen (15) days of the date the child or the person or persons to whom the child has been surrendered becomes a resident of this state, whichever is earlier.

(2) The surrender filed pursuant to subdivision (q)(1) shall be recorded by the court and shall be processed by the clerk as required by subdivision (p)(2)(A).

(3) In cases under subdivision (q)(1), where the child is in the legal custody of the department or a licensed child-placing agency, the surrender also may be filed in the chancery, circuit, or juvenile court or other court that had placed custody of the child with the department or the licensed child-placing agency.

(4) In cases under subdivision (q)(1), and in accordance with subsection (r), the court shall enter such other orders for the guardianship and supervision of the child as may be necessary or required pursuant to this section or § 36-1-118.

(r)(1)(A)(i) A surrender, a confirmed parental consent, or a waiver of interest executed in accordance with this part shall have the effect of terminating all rights as the parent or guardian to the child who is surrendered, for whom parental consent to adopt is given, or for whom a waiver of interest is executed. It shall terminate the responsibilities of the surrendering parent or guardian and the consenting parent. It shall terminate the responsibilities of the person executing a waiver of interest under this section for future child support or other future financial responsibilities pursuant to subsection (w) if the child is ultimately adopted; provided, that this shall not eliminate the responsibility of such parent or guardian for past child support arrearages or other financial obligations incurred for the care of such child prior to the execution of the surrender, parental consent, or waiver of interest; provided further, that the court may, with the consent of the parent or guardian, restore such rights and responsibilities, pursuant to § 36-1-118(d).

(ii) If, after determining the surrender to be in the child's best interest, the department accepts a surrender of a child, who was previously placed for adoption by the department, from the child's adoptive parent or parents, the unrevoked surrender of such child shall terminate the responsibilities of the surrendering adoptive parent or parents for future child support or other future financial responsibilities; provided, that this shall not be construed to eliminate the responsibility of such parent or parents for past child support arrearages or other financial obligations incurred for the care of such child prior to the execution of the surrender; and provided further, that the court may, with the consent of the parent or parents, restore such rights and

responsibilities pursuant to § 36-1-118(d).

(B) Notwithstanding subdivision (r)(1)(A), a child who is surrendered, for whom a parental consent has been executed, or for whom a waiver of interest has been executed, shall be entitled to inherit from a parent who has surrendered the child or executed a parental consent or waiver of interest until the final order of adoption is entered.

(2)(A) Unless prior court orders or statutory authorization establishes guardianship or custody in the person or entity to whom the surrender or parental consent is executed, the surrender or parental consent alone does not vest the person, persons or entities who or that receive it with the legal authority to have custody or guardianship or to make decisions for the child without the entry of an order of guardianship or partial guardianship as provided in subdivision (r)(6)(A) or as provided in § 36-1-116(f). The court accepting the surrender or the parental consent shall not enter any orders relative to the guardianship or custody of a child for whom guardianship or custody is already established under prior court orders or statutory authorization, except upon motion under subdivision (r)(4)(D) by the person, persons or entities to whom the surrender or parental consent is executed.

(B) In order to preserve confidentiality, the court clerk or the court shall have a separate adoption order of guardianship minute book, which shall be kept locked and available for public view only upon written approval of the court.

(3)(A) Except as provided in subdivisions (r)(2) and (4), a validly executed surrender shall confer jurisdiction of all matters pertaining to the child upon the court where the surrender is executed or filed until the filing of the adoption petition, at which time jurisdiction of all matters pertaining to the child shall transfer to the court where the adoption petition is filed; provided, that the jurisdiction of the juvenile court to adjudicate allegations concerning any delinquent, unruly, or truant acts of a child pursuant to title 37 shall not be suspended.

(B) A waiver of interest does not confer jurisdiction over the child in any court nor does it permit the entry of any order of custody or guardianship based solely upon such waiver, but shall only permit a court to find that that person's parental rights, if any, are terminated.

(4)(A) When, at the time the surrender or parental consent is executed, a prior court order is in effect that asserts that court's jurisdiction over the child who is the subject of the surrender or parental consent, the prior court order shall remain effective until, and only as permitted by this section, an alternate disposition for the child is made by the court where the surrender is executed or filed or until, and only as permitted by this section, an alternate disposition is made for the child on the basis of a termination of parental rights proceeding, or, as permitted by § 36-1-116, until an alternate disposition for the child is made by the court where the adoption petition is filed.

(B) If the prior court order under subdivision (r)(4)(A) gives the right to legal and physical custody of the child to a person, the department, a licensed child-placing agency, or other child-caring agency, a surrender or parental consent by the parent or guardian to any other person, persons or entities shall be invalid as provided under subdivision (d)(5), and any purported surrender or parental consent to such other person or persons

or entities shall not be recognized to grant standing to file a motion pursuant to subdivision (r)(6) and § 36-1-116(f)(3) to such other person or persons or entities who or that received the surrender or parental consent, and no order of guardianship or partial guardianship based upon that surrender or parental consent and motion shall be effective to deprive the existing legal or physical custodians under the court's prior order of legal or physical custody of that child. Any orders to the contrary shall be void and of no effect whatsoever.

(C) If the court that has entered the prior custody order under subdivision (r)(4)(A) has subject matter jurisdiction to terminate parental or guardian rights at the time a surrender of the child who is the subject of that order is validly executed in another court pursuant to subdivision (r)(4)(D) or at the time a petition to terminate parental rights is filed pursuant to subdivision (r)(4)(E), it shall continue to have jurisdiction to complete any pending petitions to terminate parental or guardian rights that are filed prior to the execution of the surrender or prior to the filing of the petition to terminate parental rights in the other court pursuant to subdivision (r)(4)(E). The court shall not have jurisdiction to complete any pending petitions to terminate parental rights subsequent to the filing of a petition for adoption. The court may enter orders of guardianship pursuant to the termination of parental rights proceedings unless prior thereto an order of guardianship is entered by another court pursuant to subdivisions (r)(4)(D) and (E). Any orders of guardianship entered pursuant to subdivisions (r)(4)(D) and (E) or pursuant to § 36-1-116 shall have priority over the orders of guardianship entered pursuant to this subdivision (r)(4)(C); provided, that orders terminating parental rights entered pursuant to this subdivision (r)(4)(C) shall be effective to terminate parental rights.

(D) If the person, persons or entities in subdivision (r)(4)(B) to whom the surrender is made have legal and physical custody of the child or the right to legal and physical custody of the child pursuant to a prior court order at the time the surrender is executed to them, any court with jurisdiction to receive a surrender may receive a surrender that is executed to them and shall have jurisdiction, upon their motion, to enter an order giving guardianship or partial guardianship to the person, persons or entities, and, notwithstanding subdivision (r)(4)(A), such order may make an alternate disposition for the child.

(E) Notwithstanding subdivision (r)(4)(A), a person, the department, or a licensed child-placing agency that had custody of the child pursuant to a court's prior order, may file in any court with jurisdiction to terminate parental or guardian rights, and in which venue exists, any necessary petitions to terminate the remaining parental or guardian rights of any person or persons to the child, and if they have any subsequent orders of guardianship or partial guardianship based upon an executed surrender or a termination of parental rights from the other court of competent jurisdiction, they may place the child for adoption in accordance with those subsequent orders.

(5) If multiple surrenders or parental consents are received with respect to the same child in different courts, subject to the restrictions of subdivisions (r)(2) and (4), the court that first receives a surrender or parental consent or in which the surrender is first filed pursuant to subsection (q),

and that enters an order of guardianship or partial guardianship, shall have jurisdiction of the child and shall issue any necessary orders of reference required by this section. Any other court that receives a surrender or parental consent or in which a surrender or parental consent is filed pursuant to subsection (q) subsequent to the surrender shall, upon notification by the first court, send the original of the surrender or filed pleading to the first court and shall retain a certified copy of the original in a closed file, which shall not be accessed by any person without the written order of the court.

(6)(A) Subject to the restrictions of subdivisions (r)(2) and (4), a validly executed surrender under this section or a parental consent shall give to the person to whom the child is surrendered or to whom a parental consent is given standing to file a written motion for an express order of guardianship or partial guardianship, as defined in § 36-1-102, from the court where the child was surrendered or where, under subsection (q), the surrender was filed, or in the court that, pursuant to subdivision (r)(4)(A), has granted legal custody of the child to such person, or in the court in which the adoption petition is filed. A validly executed surrender shall entitle the department or the licensed child-placing agency that received the surrender to have the court enter an order of guardianship pursuant to subdivision (r)(6)(C).

(B) The motion, which may be filed by any person or by that person's attorney, shall contain an affidavit that the party seeking the order of guardianship or partial guardianship has physical custody of the child, or if filed at the time of the execution of the surrender or the filing of the adoption petition containing a parental consent, it shall contain the affidavits otherwise required by subdivision (d)(6).

(C) If the person, the department, or the licensed child-placing agency to whom the child is surrendered or to whom parental consent is given has physical custody or has otherwise complied with the requirements of subdivision (d)(6), and if there has been full compliance with the other provisions of this section, the court may, contemporaneously with the surrender or the filing of an adoption petition, immediately upon written motion by the person or the person's attorney, and the court shall, if the surrender is to a licensed child-placing agency or the department, enter an order giving the person, the licensed child-placing agency, or the department, guardianship or partial guardianship of the child.

(D) A copy of the surrender, the motion and any resulting order shall be sent by the clerk to the adoptions unit in the state office of the department in Nashville, which shall record the surrender, the motion, and the order and their dates of filing and entry for purposes of tracking the child's placement status and the status of the adoption process involving the child.

(7) If an order of guardianship is entered, the appointed guardians shall have authority to act as guardian ad litem or next friend of the child in any suit by the child against third parties while the child is in the care and custody of the petitioners. The court may appoint a special guardian for the child for such purpose upon motion by the department for a child in its guardianship.

(8) If the court grants guardianship or custody of the child upon the filing of the surrender or upon the filing of a parental consent and the child is

possessed of any real or personal property to be administered, the court shall appoint a guardian of the property of the child if no guardian of the property exists, and such guardian may be the same person or persons who are guardians of the person of the child except if the child is in the guardianship of the department in which case another person or entity shall be appointed.
(s) [Deleted by 2018 amendment.]

(t)(1) Upon receipt of the surrender or upon filing a parental consent for an adoption by a person other than a related person, and if no home study had been completed or updated within six (6) months prior to the surrender or the filing of a parental consent, and no court report based upon the home study has been filed with the court, the court shall, by an order of reference issued within five (5) days, direct that a home study be conducted and filed as provided in this part.

(2) The order of reference shall be directed to a licensed child-placing agency or a licensed clinical social worker unless the prospective adoptive parents are indigent under current federal poverty guidelines, in which case the order shall be directed to the department.

(3) The court report based upon the home study shall be filed with the court within sixty (60) days of the date of the order of reference.

(4) The court shall order a licensed child-placing agency, a licensed clinical social worker, or the department, if the parents are indigent under federal poverty guidelines, to provide supervision for the child who is in the home of prospective adoptive parents pursuant to a surrender or a parental consent under this section, and to make any necessary court reports that the court should have concerning the welfare of the child pending entry of the final order in the case; provided, that this subdivision (t)(4) shall not apply when the surrender is made to related persons.

(5) If the adoption petition is filed before the home study is completed or before the court report based upon the home study is filed, and the adoption petition is filed in a court other than the one where the surrender was executed, the court where the surrender was executed shall, upon request of the court where the adoption petition is filed or upon motion of the prospective adoptive parents, send any court report it receives to the adoption court.

(6) Unless they are indigent under federal poverty guidelines, the prospective adoptive parents shall be assessed by the court the costs of the study and the supervision of the placement by the agency, and the costs shall be paid by them to the licensed child-placing agency or licensed clinical social worker that performed the home study or supervision.

(u)(1) Failure to fully comply with this section or failure to file the surrender executed pursuant to subsection (h), (i) or (j) within the fifteen-day period required by subsection (q), or failure to obtain an order of guardianship in accordance with this section within thirty (30) days of the date the surrender is executed or filed, or within thirty (30) days of the date parental consent is filed, shall be grounds for removal of the child from the physical care and control of the person, the department, or licensed child-placing agency receiving the surrender; provided, that this shall not apply when the persons, the department or the licensed child-placing agency have legal custody or partial guardianship under an order of a court entered prior to the execution of the surrender or parental consent or pursuant to any statutory authority giving custody to the department or licensed child-placing agency.

(2) A sworn complaint concerning the grounds alleged in subdivision (u)(1) and concerning the best interests of a child for whom a surrender is sought or on whom a surrender or parental consent was executed or guardianship order entered, or which complaint otherwise seeks to present proof concerning the best interests of the child, may be filed by any person, the department, a licensed child-placing agency, or a licensed clinical social worker.

(3) The complaint may be filed in the court where the surrender was executed or filed or where the adoption petition containing a parental consent was filed. If the surrender was not executed or filed in Tennessee or if the surrender was not executed before a court or if the surrender was not filed at all, then the complaint may be filed in the circuit, chancery, or juvenile court in the county where the child resides.

(v)(1)(A) Upon its own motion or upon the complaint filed pursuant to subsection (u) and subject to the restrictions concerning custody of the child who is not in the custody of the prospective adoptive parents as stated in subdivisions (r)(2) and (4) and § 36-1-116(f)(1), the court receiving the surrender or entering the order of guardianship or partial guardianship and the adoption court to which jurisdiction may be transferred may make any suitable provisions for the care of the child and, notwithstanding the restrictions of subdivisions (r)(2) and (4) and § 36-1-116(f)(1), the court shall have jurisdiction to enter any necessary orders, including any emergency ex parte orders for the child's emergency protection, care, and supervision based upon probable cause that the child's health and safety is immediately endangered; provided, that such emergency orders shall only remain effective for thirty (30) days when the restrictions of subdivisions (r)(2) and (4) and § 36-1-116(f)(1) apply.

(B) If another court has jurisdiction under a prior order because of such restrictions, upon completion of all proceedings to protect the child, the court shall then return all jurisdiction over the child to the court having jurisdiction under the prior order; provided, that the juvenile court shall maintain jurisdiction pursuant to title 37 to adjudicate allegations of delinquency, unruliness, or truancy involving the child.

(C) If the child has no legal custodian with authority to provide temporary care for the child, then, subject to the restrictions of subdivisions (r)(2) and (4) and § 36-1-116(f)(1), the court shall give temporary legal custody pursuant to § 37-1-140 to the department or a licensed child-placing agency until full compliance has been effected and until a guardianship or partial guardianship order can be entered, or until some other disposition is made for the child by the court. The court may permit the department or a licensed child-placing agency, in its discretion, to place the child with any suitable person, including the prospective adoptive parents, under the department's or the licensed child-placing agency's supervision.

(D) If an emergency ex parte order removes the child from the custody of the prospective adoptive parents or the department or licensed child-placing agency, a preliminary hearing shall be held within five (5) days, excluding Saturdays, Sundays, and legal holidays, to determine if probable cause exists for the continuance of such order.

(2) The prospective adoptive parents or entities from which the child was removed shall be necessary parties at the preliminary hearing and the final

hearing, and the court may order the department or a licensed child-placing agency or licensed clinical social worker to provide any necessary information or court reports concerning the welfare of the child as it may require.

(3) A final hearing shall be held within thirty (30) days of the date of the preliminary hearing, except for good cause entered upon the record.

(4) Upon the final hearing, and based upon clear and convincing evidence that the action is in the best interests of the child, the court shall have jurisdiction to enter an order removing the child from the prospective adoptive parents or other custodian or guardian of the child, and may award temporary legal custody giving any person, the department or licensed child-placing agency, or a child-caring agency, the care and custody of the child as provided under § 37-1-140 or may enter a guardianship or partial guardianship order with the rights provided under this part, all subject to the rights of any remaining parent or guardian.

(w)(1) Notwithstanding any other law to the contrary, a waiver of interest and notice, when signed under oath by the alleged biological father, shall serve to waive the alleged biological father's interest in the child and the alleged biological father's rights to notice of any proceedings with respect to the child's adoption, custody or guardianship. The alleged biological father who executes the waiver shall not be required to be made a party to any adoption proceedings, custody or guardianship proceedings with respect to the child and shall not be entitled to receive notice thereof, and the court in any adoption proceeding, notwithstanding any law to the contrary, shall have jurisdiction to enter a final order of adoption of the child based upon the waiver, and in other proceedings to determine the child's legal custody or guardianship shall have jurisdiction to enter an order for those purposes. The waiver may not be revoked.

(2)(A) The execution of the waiver, in conjunction with a final order of adoption of the child, shall irrevocably terminate all rights the alleged biological father has or may have to the child and any rights the child has or may have relative to the alleged biological father. Upon entry of a final order of adoption of the child, the waiver, except as provided in subdivision (w)(2)(B), shall also terminate the responsibility of the alleged biological father for any future child support or other financial obligations to the child, or to the child's mother that are related to the child's support, arising after the date of the execution of the waiver.

(B) If, after execution of the waiver, a final order of adoption is not entered, and a parentage action is initiated against the alleged biological father or the alleged biological father executes a voluntary acknowledgment of paternity, the alleged biological father shall become liable for child support or other financial obligations to the child, or to the child's mother that are related to the child's support, arising after the execution of the waiver and beginning with the date of the entry of an order establishing the biological father's parentage to the child or upon the date of the biological father's execution of a voluntary acknowledgment of paternity; provided, if paternity is later established, the alleged biological father who executed the waiver shall be liable for all or a portion of the actual medical and hospital expenses of the child's birth and all or a portion of the mother's prenatal and postnatal care up to thirty (30) days following the child's birth if the parentage action is initiated or the voluntary acknowledgment of paternity is executed within two (2) years of the date of the

execution of the waiver.

(3) The waiver shall not be valid for use by a legal father as defined under § 36-1-102 or for any man listed as the father of a child on the child's birth certificate.

(4) The waiver of interest and notice may be executed at any time after the biological mother executes a statement identifying such person as the biological father or possible biological father of the biological mother's child to be born, or at any time after the birth of the child.

(5) The waiver of interest and notice shall be legally sufficient if it contains a statement comparable to the following:

WAIVER OF INTEREST AND NOTICE

STATE OF _____)
COUNTY OF _____)

Pursuant to Tennessee Code Annotated, § 36-1-111(w), and first being duly sworn according to law, affiant would state the following:

My name is _____. I understand that I have been named by _____, the mother of a child [to be born], or a [child who was born in _____ (City) _____ (State) on the ____ day of _____, 19____ (or 20____)], as the father or possible father of that child. I further understand that the mother has placed or wishes to place this child for adoption or that the child is the subject of legal proceedings leading to the child's adoption or leading to a determination of the child's legal custody or guardianship.

I am not necessarily admitting or saying that I am the father of this child, but if I am, I do not wish to provide care for this child, and I feel it would be in the child's best interest for this adoption to occur, or for other custody or guardianship proceedings to occur in the child's best interests. I hereby formally waive any right to notice of the legal proceedings: to adopt this child; to otherwise make this child available for adoption; or to award the child's legal custody or guardianship to other persons or agencies. I hereby formally waive any further parental rights to the child and execute this document to finally terminate my rights, if I have any rights, to this child, upon entry of a final order of adoption for this child.

If the child is not yet born:

[I have received and reviewed a copy of the statement of the child's mother in which the mother identifies me as the father of the child.]

I consent to adoption of this child by any persons chosen by the child's mother or by any public or private agency, and consent to the establishment of any legal custody or guardianship arrangements for the child.

I understand that by execution of this waiver, this child may be adopted by other persons or that other custody or guardianship proceedings regarding the child's status may occur and that I will have no rights, if I have any, to act as parent, to visit with, or otherwise be involved in this child's life, unless and until a legal relationship is established between me and the child.

I further understand that I may not revoke this waiver at any time after I sign it.

I further understand that if the child is not adopted, that legal proceedings can be brought to seek to establish me as the legal father, and I may become

386

liable for financial support or financial obligations for this child or to the child's mother that are related to the child's support, arising after I sign this waiver, and beginning on the date an order is entered that establishes me as the child's father or beginning on the date I sign a voluntary acknowledgment of paternity of the child. I also understand that if the child is not adopted and paternity is later established by legal proceedings, or if I sign a voluntary acknowledgement of paternity, I could be liable for all or a portion of the actual medical and hospital expenses of the child's birth and all or a portion of the mother's prenatal and postnatal care up to thirty (30) days following the child's birth if the legal proceeding to establish me as the child's father is brought, or the voluntary acknowledgment of paternity of the child is signed, within two (2) years of the date I sign this waiver.

FURTHER, AFFIANT SAITH NOT.

DATED: THE ____ DAY OF _____, 19____ (20____).

Alleged Father (Please Print)

Signature of Alleged Father

Address

Personally appeared before me the above-named _____ who is known to me and who acknowledged that he executed the above Waiver of Interest and Notice as his own free and voluntary act.

Notary Public

My commission expires: _____

(x)(1) Notwithstanding any other law to the contrary, a denial of paternity and notice of a child, when signed under oath by the child's legal father claiming not to be the child's biological father, who is not the child's adoptive father, and when accompanied by credible proof that the legal father is not the father of the child, shall waive the legal father's parental rights and all parental interests with respect to the child. No further notice to the legal father or termination of the legal father's parental rights is necessary for the child to be placed in guardianship or adopted. "Credible proof" includes the written sworn statement of the child's mother.

(2) The parental rights of a man denying paternity of a child are terminated and the man's future parental responsibilities with respect to the child are terminated upon adoption of the child by other persons.

(3) The denial of paternity and notice shall not be valid for use by a legal father who is also a biological parent as defined in § 36-1-102.

(4) A denial of paternity and notice under this section may be executed at any time after conception of the child who is the subject of the denial, and may not be revoked by the father unless the adoption plan is abandoned. A father who executes a denial of paternity and notice under this section relinquishes any right to petition to have the father's legal or biological relationship to the child determined by a court.

(5) The denial of paternity and notice shall be legally sufficient if it contains a statement comparable to the following:

DENIAL OF PATERNITY AND NOTICE BY A LEGAL FATHER
STATE OF _____
COUNTY OF _____

Pursuant to Tennessee Code Annotated § 36-1-111(x), and first being duly sworn according to law, affiant would state the following:

My name is _____. I am personally acquainted with _____, the biological mother of _____, a child [to be born], or a [child who was born] in _____ (City) _____ (State) on the ____ day of _____, 20____.

I am or I have been told that I am or may be the presumed and/or legal father of the above- named child.

I AM CERTAIN THAT I AM NOT THE BIOLOGICAL FATHER OF THIS CHILD.

I understand that the mother has placed or wishes to place this child for adoption, or that the child is the subject of legal proceedings leading to the child's adoption, or leading to a determination of the child's legal custody or guardianship. I do not want custody of this child. I either agree with an adoption plan or I do not wish to be involved in the decision.

I HEREBY WAIVE MY PARENTAL RIGHTS TO THIS CHILD, IF I HAVE ANY RIGHTS, AND I WANT MY PARENTAL RIGHTS, IF ANY, TO BE TERMINATED WITHOUT FURTHER ACTION BY, OR NOTICE TO, ME.

I formally waive my rights to notice of legal proceedings regarding the child including: adoption, custody, guardianship, and termination of other parents' rights and any other similar actions.

I understand that by my execution of this Denial of Paternity and Notice, along with the finalization of the child's adoption, I will lose any right I may have to act as parent, to visit with, or otherwise be involved in this child's life. I also relinquish any right to petition to have my legal and biological relationship to this child determined by a court.

I FURTHER UNDERSTAND THAT I MAY NOT REVOKE THIS DENIAL AT ANY TIME AFTER I SIGN IT.

I also understand that while this denial is not revocable, it is not effective to terminate my parental rights or responsibilities unless or until an adoption of the child is finalized. If the adoption is not finalized, I understand that I retain any rights that I otherwise had to rebut a presumption that I am the father of the child.

388

FURTHER AFFIANT SAITH NOT this _____ DAY OF _____, 20____.

Legal Father (Please Print)

Signature of Legal Father

Address

City, State, Zip Code

Personally appeared before me the above-named _____, who is known to me and who acknowledged that he executed the above Denial of Paternity and Notice as his own free and voluntary act.

Notary Public _____ My commission expires:

(y)(1) If a child is surrendered to a person other than a licensed child-placing agency or the department, and, after the expiration of the three-day period for revocation, the person or persons to whom the child was surrendered decide that they no longer wish to adopt the child, and if no order of guardianship has been entered by a court that gives those persons who had received the surrender the guardianship of the child, they may surrender the child to a licensed child-placing agency or the department without notice to the parent or guardians who originally had executed the surrender to them.

(2) In this event, the licensed child-placing agency or the department shall have the same rights as set forth above just as if the child had been originally surrendered to them; provided, that if the court has entered a guardianship order as set forth above, the surrender cannot be utilized in this manner, and a motion must be made to the court to modify the existing guardianship order.

(3) Certified copies of all such surrenders and orders modifying any order of guardianship shall be sent by the clerk to the adoptions unit in the state office of the department in Nashville.

(z) [Deleted by 2018 amendment.]

36-1-113. Termination of parental or guardianship rights.

(a) The chancery and circuit courts shall have concurrent jurisdiction with the juvenile court to terminate parental or guardianship rights to a child in a separate proceeding, or as a part of the adoption proceeding by utilizing any grounds for termination of parental or guardianship rights permitted in this part or in title 37, chapter 1, part 1 and title 37, chapter 2, part 4. All pleadings and records filed in the chancery and circuit courts pursuant to this section shall be placed under seal and shall not be subject to public disclosure, in the same manner as those filed in juvenile court, unless otherwise provided by court order.

(b)(1) The prospective adoptive parent or parents, including extended family members caring for a related child, any licensed child-placing agency having physical custody of the child, the child's guardian ad litem, or the department shall have standing to file a petition pursuant to this part or title 37 to terminate parental or guardianship rights of a person alleged to be a parent or guardian of the child. The child's parent, pursuant to subdivision (g)(10), (g)(11), or (g)(15), shall also have standing to file a petition pursuant to this part or title 37 to terminate parental or guardianship rights of a person alleged to be a parent or guardian of the child. The prospective adoptive parents, including extended family members caring for a related child, shall have standing to request termination of parental or guardianship rights in the adoption petition filed by them pursuant to this part.

(2) The court shall notify the petitioning parent that the duty of future child support by the parent who is the subject of the termination petition will be forever terminated by entry of an order terminating parental rights.

(c) Termination of parental or guardianship rights must be based upon:

(1) A finding by the court by clear and convincing evidence that the grounds for termination of parental or guardianship rights have been established; and

(2) That termination of the parent's or guardian's rights is in the best interests of the child.

(d)(1) The petition to terminate parental rights may be made upon information and belief and shall be verified. If a parent whose parental rights are proposed for termination is the legal parent of the child, as defined in § 36-1-102, and if such parent is alleged to be deceased, then diligent efforts must be made by the petitioner to verify the death of such parent. Upon proof satisfactory to the court that such parent is deceased, no further action shall be required to terminate parental rights of that person.

(2)(A) The petition to terminate parental rights shall state:

(i) The child's birth name;

(ii) The child's age or date of birth;

(iii) The child's current residence address or county of residence or that the child is in the custody of the department or a licensed child-placing agency;

(iv) Any other facts that allege the basis for termination of parental rights and that bring the child and parties within the jurisdiction of the court;

(v) Any notice required pursuant to subdivision (d)(4) has been given; and

(vi) The medical and social history of the child and the child's biological family has been completed to the extent possible on the form promulgated by the department pursuant to § 36-1-111(k); provided, however, the absence of such completed information shall not be a barrier to termination of parental rights.

(B) Initials or pseudonyms may be used in the petition in lieu of the full names of the petitioners to promote the safety of the petitioners or of the child, with permission of the court;

(3)(A) The petition to terminate parental rights must state that:

(i) The Tennessee putative father registry has been consulted prior to the filing of the petition or will be consulted within ten (10) days thereafter unless the biological father has been identified through DNA

testing as described in § 24-7-112 and that identification is set out in the petition; and a copy of the response to this inquiry shall be provided to the court immediately upon receipt by the petitioner; and

(ii) Notice of the filing of the termination petition has been provided to the Tennessee putative father registry if the child is less than thirty (30) days old at the time the petition is filed.

(B) [Deleted by 2019 amendment.]

(C) The petition to terminate, or the adoption petition that seeks to terminate parental rights, shall state that:

(i) The petition or request for termination in the adoption petition, if granted, shall have the effect of forever severing all of the rights, responsibilities, and obligations of the parent or parents or the guardian or guardians to the child who is the subject of the order, and of the child to the parent or parents or the guardian or guardians;

(ii) The child will be placed in the guardianship of other person, persons or public or private agencies who, or that, as the case may be, shall have the right to adopt the child, or to place the child for adoption and to consent to the child's adoption; and

(iii) The parent or guardian shall have no further right to notice of proceedings for the adoption of the child by other persons and that the parent or guardian shall have no right to object to the child's adoption or thereafter, at any time, to have any relationship, legal or otherwise, with the child.

(4) The petition to terminate parental rights, if filed separately from the adoption petition, may be filed as provided in § 36-1-114. If the petition is filed in a court different from the court where there is a pending custody, dependency, neglect or abuse proceeding concerning a person whose parental rights are sought to be terminated in the petition, a notice of the filing of the petition, together with a copy of the petition, shall be sent by the petitioner to the court where the prior proceeding is pending. In addition, the petitioner filing a petition under this section shall comply with the requirements of § 36-1-117(e).

(e) Service of process of the petition shall be made as provided in § 36-1-117.

(f) Before terminating the rights of any parent or guardian who is incarcerated or who was incarcerated at the time of an action or proceeding is initiated, it must be affirmatively shown to the court that such incarcerated parent or guardian received actual notice of the following:

(1) The time and place of the hearing to terminate parental rights;

(2) That the hearing will determine whether the rights of the incarcerated parent or guardian should be terminated;

(3) That the incarcerated parent or guardian has the right to participate in the hearing and contest the allegation that the rights of the incarcerated parent or guardian should be terminated, and, at the discretion of the court, such participation may be achieved through personal appearance, teleconference, telecommunication or other means deemed by the court to be appropriate under the circumstances;

(4) That if the incarcerated parent or guardian wishes to participate in the hearing and contest the allegation, such parent or guardian:

(A) If indigent, will be provided with a court-appointed attorney to assist the parent or guardian in contesting the allegation; and

(B) Shall have the right to perpetuate such person's testimony or that of any witness by means of depositions or interrogatories as provided by the

Tennessee Rules of Civil Procedure; and

(5) If, by means of a signed waiver, the court determines that the incarcerated parent or guardian has voluntarily waived the right to participate in the hearing and contest the allegation, or if such parent or guardian takes no action after receiving notice of such rights, the court may proceed with such action without the parent's or guardian's participation.

(g) Initiation of termination of parental or guardianship rights may be based upon any of the grounds listed in this subsection (g). The following grounds are cumulative and nonexclusive, so that listing conditions, acts or omissions in one ground does not prevent them from coming within another ground:

(1) Abandonment by the parent or guardian, as defined in § 36-1-102, has occurred;

(2) There has been substantial noncompliance by the parent or guardian with the statement of responsibilities in a permanency plan pursuant to title 37, chapter 2, part 4;

(3)(A) The child has been removed from the home or the physical or legal custody of a parent or guardian for a period of six (6) months by a court order entered at any stage of proceedings in which a petition has been filed in the juvenile court alleging that a child is a dependent and neglected child, and:

(i) The conditions that led to the child's removal still persist, preventing the child's safe return to the care of the parent or guardian, or other conditions exist that, in all reasonable probability, would cause the child to be subjected to further abuse or neglect, preventing the child's safe return to the care of the parent or guardian;

(ii) There is little likelihood that these conditions will be remedied at an early date so that the child can be safely returned to the parent or guardian in the near future; and

(iii) The continuation of the parent or guardian and child relationship greatly diminishes the child's chances of early integration into a safe, stable, and permanent home;

(B) The six (6) months must accrue on or before the first date the termination of parental rights petition is set to be heard;

(4) The parent or guardian has been found to have committed severe child abuse, as defined in § 37-1-102, under any prior order of a court or is found by the court hearing the petition to terminate parental rights or the petition for adoption to have committed severe child abuse against any child;

(5) The parent or guardian has been sentenced to more than two (2) years' imprisonment for conduct against the child who is the subject of the petition, or for conduct against any sibling or half-sibling of the child or any other child residing temporarily or permanently in the home of such parent or guardian, that has been found under any prior order of a court or that is found by the court hearing the petition to be severe child abuse, as defined in § 37-1-102. Unless otherwise stated, for purposes of this subdivision (g)(5), "sentenced" shall not be construed to mean that the parent or guardian must have actually served more than two (2) years in confinement, but shall only be construed to mean that the court had imposed a sentence of two (2) or more years upon the parent or guardian;

(6) The parent has been confined in a correctional or detention facility of any type, by order of the court as a result of a criminal act, under a sentence of ten (10) or more years, and the child is under eight (8) years of age at the

time the sentence is entered by the court;

(7) The parent has been:

(A) Convicted of first degree or second degree murder of the child's other parent or legal guardian; or

(B) Found civilly liable for the intentional and wrongful death of the child's other parent or legal guardian;

(8)(A) The chancery and circuit courts shall have jurisdiction in an adoption proceeding, and the chancery, circuit, and juvenile courts shall have jurisdiction in a separate, independent proceeding conducted prior to an adoption proceeding to determine if the parent or guardian is mentally incompetent to provide for the further care and supervision of the child, and to terminate that parent's or guardian's rights to the child;

(B) The court may terminate the parental or guardianship rights of that person if it determines on the basis of clear and convincing evidence that:

(i) The parent or guardian of the child is incompetent to adequately provide for the further care and supervision of the child because the parent's or guardian's mental condition is presently so impaired and is so likely to remain so that it is unlikely that the parent or guardian will be able to assume or resume the care of and responsibility for the child in the near future; and

(ii) That termination of parental or guardian rights is in the best interest of the child;

(C) In the circumstances described under subdivisions (8)(A) and (B), no willfulness in the failure of the parent or guardian to establish the parent's or guardian's ability to care for the child need be shown to establish that the parental or guardianship rights should be terminated;

(9)(A) The parental rights of any person who, at the time of the filing of a petition to terminate the parental rights of such person, or if no such petition is filed, at the time of the filing of a petition to adopt a child, is the putative father of the child may also be terminated based upon any one (1) or more of the following additional grounds:

(i) [Deleted by 2019 amendment.]

(ii) The person has failed, without good cause or excuse, to make reasonable and consistent payments for the support of the child in accordance with the child support guidelines promulgated by the department pursuant to § 36-5-101;

(iii) The person has failed to seek reasonable visitation with the child, and if visitation has been granted, has failed to visit altogether, or has engaged in only token visitation, as defined in § 36-1-102;

(iv) The person has failed to manifest an ability and willingness to assume legal and physical custody of the child;

(v) Placing custody of the child in the person's legal and physical custody would pose a risk of substantial harm to the physical or psychological welfare of the child; or

(vi) The person has failed to file a petition to establish paternity of the child within thirty (30) days after notice of alleged paternity, or as required in § 36-2-318(j), or after making a claim of paternity pursuant to § 36-1-117(c)(3);

(B)(i) For purposes of this subdivision (g)(9), "notice" means the written statement to a person who is believed to be the biological father or possible biological father of the child. The notice may be made or given

by the mother, the department, a licensed child-placing agency, the prospective adoptive parents, a physical custodian of the child, or the legal counsel of any of these people or entities; provided, that actual notice of alleged paternity may be proven to have been given to a person by any means and by any person or entity. The notice may be made or given at any time after the child is conceived and, if not sooner, may include actual notice of a petition to terminate the putative father's parental rights with respect to the child;

(ii) "Notice" also means the oral statement to an alleged biological father from a biological mother that the alleged biological father is believed to be the biological father, or possible biological father, of the biological mother's child;

(10)(A) The parent has been convicted of aggravated rape pursuant to § 39-13-502, rape pursuant to § 39-13-503, or rape of a child pursuant to § 39-13-522, from which crime the child was conceived. A certified copy of the conviction suffices to prove this ground;

(B) When one (1) of the child's parents has been convicted of one (1) of the offenses specified in subdivision (g)(10)(A), the child's other parent shall have standing to file a petition to terminate the parental rights of the convicted parent. Nothing in this section shall give a parent standing to file a petition to terminate parental rights based on grounds other than those listed in this subdivision (g)(10) or subdivision (g)(11) or (g)(15);

(11)(A)(i) The parent has been found to have committed severe child sexual abuse under any prior order of a criminal court;

(ii) For the purposes of this section, "severe child sexual abuse" means the parent is convicted of any of the following offenses towards a child:

- (a) Aggravated rape, pursuant to § 39-13-502;
- (b) Aggravated sexual battery, pursuant to § 39-13-504;
- (c) Aggravated sexual exploitation of a minor, pursuant to § 39-17-1004;
- (d) Especially aggravated sexual exploitation of a minor, pursuant to § 39-17-1005;
- (e) Incest, pursuant to § 39-15-302;
- (f) Rape, pursuant to § 39-13-503; or
- (g) Rape of a child, pursuant to § 39-13-522;

(B) When one (1) of the child's parents has been convicted of one (1) of the offenses specified in subdivision (g)(11)(A)(ii), the child's other parent shall have standing to file a petition to terminate the parental rights of the abusive parent. Nothing in this section shall give a parent standing to file a petition to terminate parental rights based on grounds other than those listed in subdivision (g)(10), this subdivision (g)(11), or subdivision (g)(15);

(12) The parent or guardian has been convicted of trafficking for commercial sex act under § 39-13-309;

(13) The parent or guardian has been convicted on or after July 1, 2015, of sex trafficking of children or by force, fraud, or coercion under 18 U.S.C. § 1591, or a sex trafficking of children offense under the laws of another state that is substantially similar to § 39-13-309;

(14) A parent or guardian has failed to manifest, by act or omission, an ability and willingness to personally assume legal and physical custody or financial responsibility of the child, and placing the child in the person's legal and physical custody would pose a risk of substantial harm to the

physical or psychological welfare of the child; and

(15)(A) The parent or legal guardian has been convicted of attempted first degree murder or attempted second degree murder of the child's other parent or legal guardian;

(B) When one (1) of the child's parents or legal guardians has been convicted of attempted first degree murder or attempted second degree murder of the child's other parent or legal guardian, the child's non-offending parent or legal guardian shall have standing to file a petition to terminate the parental or guardianship rights of the convicted parent or legal guardian. Nothing in this section shall give a parent or legal guardian standing to file a petition to terminate parental or guardianship rights based on grounds other than those listed in subdivision (g)(10) or (g)(11) or this subdivision (g)(15).

(h)(1) The department shall file a petition to terminate the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, under the following circumstances:

(A) In the case of a child who has been in foster care under the responsibility of the department for fifteen (15) of the most recent twenty-two (22) months; or

(B) If a court of competent jurisdiction has determined a child to be an abandoned infant as defined at § 36-1-102; or

(C) If a court of competent jurisdiction has made a determination in a criminal or civil proceeding that the parent has committed murder of any sibling or half-sibling of the child who is the subject of the petition or any other child residing temporarily or permanently in the home, committed voluntary manslaughter of another such child, aided or abetted, attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter of the child that is the subject of the petition or any sibling or half-sibling of the child who is the subject of the petition or any other child residing temporarily or permanently in the home, or committed a felony assault that has resulted in serious bodily injury or severe child abuse as defined at § 37-1-102 to the child that is the subject of the petition or any sibling or half-sibling of the child who is the subject of the petition or any other child residing temporarily or permanently in the home. For the purposes of this subsection (h), such a determination shall be made by a jury or trial court judge designated by § 16-2-502 through an explicit finding, or by such equivalent courts of other states or of the United States; or

(D) If a juvenile court has made a finding of severe child abuse as defined at § 37-1-102.

(2) At the option of the department, the department may determine that a petition to terminate the parental rights of the child's parents shall not be filed (or, if such a petition has been filed by another party, shall not be required to seek to be joined as a party to the petition), if one of the following exists:

(A) The child is being cared for by a relative;

(B) The department has documented in the permanency plan, which shall be available for court review, a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

(C) The department has not made reasonable efforts under § 37-1-166 to provide to the family of the child, consistent with the time period in the department permanency plan, such services as the department deems necessary for the safe return of the child to the child's home.

(i) In determining whether termination of parental or guardianship rights is in the best interest of the child pursuant to this part, the court shall consider, but is not limited to, the following:

(1) Whether the parent or guardian has made such an adjustment of circumstance, conduct, or conditions as to make it safe and in the child's best interest to be in the home of the parent or guardian;

(2) Whether the parent or guardian has failed to effect a lasting adjustment after reasonable efforts by available social services agencies for such duration of time that lasting adjustment does not reasonably appear possible;

(3) Whether the parent or guardian has maintained regular visitation or other contact with the child;

(4) Whether a meaningful relationship has otherwise been established between the parent or guardian and the child;

(5) The effect a change of caretakers and physical environment is likely to have on the child's emotional, psychological and medical condition;

(6) Whether the parent or guardian, or other person residing with the parent or guardian, has shown brutality, physical, sexual, emotional or psychological abuse, or neglect toward the child, or another child or adult in the family or household;

(7) Whether the physical environment of the parent's or guardian's home is healthy and safe, whether there is criminal activity in the home, or whether there is such use of alcohol, controlled substances or controlled substance analogues as may render the parent or guardian consistently unable to care for the child in a safe and stable manner;

(8) Whether the parent's or guardian's mental and/or emotional status would be detrimental to the child or prevent the parent or guardian from effectively providing safe and stable care and supervision for the child; or

(9) Whether the parent or guardian has paid child support consistent with the child support guidelines promulgated by the department pursuant to § 36-5-101.

(j) In the hearing on the petition, the circuit, chancery, or juvenile court shall admit evidence, pursuant to the Tennessee Rules of Evidence, and shall recognize the exemptions to privileges as provided pursuant to §§ 37-1-411 and 37-1-614.

(k) The court shall ensure that the hearing on the petition takes place within six (6) months of the date that the petition is filed, unless the court determines an extension is in the best interests of the child. The court shall enter an order that makes specific findings of fact and conclusions of law within thirty (30) days of the conclusion of the hearing. If such a case has not been completed within six (6) months from the date the petition was served, the petitioner or respondent shall have grounds to request that the court of appeals grant an order expediting the case at the trial level.

(l)(1) An order terminating parental rights shall have the effect of severing forever all legal rights and obligations of the parent or guardian of the child against whom the order of termination is entered and of the child who is the subject of the petition to that parent or guardian. The parent or guardian

shall have no further right to notice of proceedings for the adoption of that child by other persons and shall have no right to object to the child's adoption or thereafter to have any relationship, legal or otherwise, with the child. It shall terminate the responsibilities of that parent or guardian under this section for future child support or other future financial responsibilities even if the child is not ultimately adopted; provided, that the entry of an order terminating the parental rights shall not eliminate the responsibility of such parent or guardian for past child support arrearages or other financial obligations incurred for the care of such child prior to the entry of the order terminating parental rights.

(2) Notwithstanding subdivision (l)(1), a child who is the subject of the order for termination shall be entitled to inherit from a parent whose rights are terminated until the final order of adoption is entered.

(m) Upon termination of parental or guardian rights, the court may award guardianship or partial guardianship of the child to a licensed child-placing agency or the department. Such guardianship shall include the right to place the child for adoption and the right to consent to the child's adoption. Upon termination of parental or guardian rights, the court may award guardianship or partial guardianship to any prospective adoptive parent or parents with the right to adopt the child, or to any permanent guardian who has been appointed pursuant to title 37, chapter 1, part 8. In any of these cases, such guardianship is subject to the remaining rights, if any, of any other parent or guardian of the child. Before guardianship or partial guardianship can be awarded to a permanent guardian, the court shall find that the department or licensed child-placing agency currently having custody of the child has made reasonable efforts to place the child for adoption and that permanent guardianship is in the best interest of the child.

(n) An order of guardianship or partial guardianship entered by the court pursuant to this section shall supersede prior orders of custody or guardianship of that court and of other courts, except those prior orders of guardianship or partial guardianship of other courts entered as the result of validly executed surrenders or revocations pursuant to § 36-1-111 or § 36-1-112, or except as provided pursuant to § 36-1-111(r)(4)(D) and (E), or except an order of guardianship or partial guardianship of a court entered pursuant to § 36-1-116; provided, that orders terminating parental rights entered by a court under this section prior to the filing of an adoption petition shall be effective to terminate parental rights for all purposes.

(o) If the court terminates parental or guardianship rights, under this part or title 37 or a consent is given pursuant to § 36-1-117(f) or (g), or if there have been surrenders of parental or guardianship rights of all other necessary parties, then no further surrender or consent of that parent or guardian shall be necessary to authorize an adoption; provided, that the adoption court may review and confirm the validity of any denials of parentage made by persons under any statutory provisions from outside the state of Tennessee.

(p) A copy of the order or orders obtained by the prospective adoptive parents terminating parental or guardianship rights under this section shall be filed with the petition for adoption.

(q) After the entry of the order terminating parental rights, no party to the proceeding, nor anyone claiming under such party, may later question the validity of the termination proceeding by reason of any defect or irregularity therein, jurisdictional or otherwise, but shall be fully bound thereby, except

based upon a timely appeal of the termination order as may be allowed by law; and in no event, for any reason, shall a termination of parental rights be overturned by any court or collaterally attacked by any person or entity after one (1) year from the date of the entry of the final order of termination. This provision is intended as a statute of repose.

36-1-116. Home study — Adoption petition — Order of reference.

(a)(1) Prior to filing a petition for the adoption of a child, the prospective adoptive parents shall, except as otherwise provided by law, contact a licensed child-placing agency, or a licensed clinical social worker, or if indigent under federal poverty guidelines, they shall, except as otherwise provided by law, contact the department, and request a home study or a preliminary home study concerning the suitability of their home and themselves as adoptive parents; provided, that the court may waive this requirement when the child is to be adopted by related persons.

(2) To be valid for use in response to the order of reference issued pursuant to subsection (e), the home study must have been completed or updated within one (1) year prior to the date of the order of reference. The preliminary home study must have been completed within thirty (30) days prior to the filing of the petition.

(b) The petition to adopt may be made upon information and belief, shall be verified, and must:

(1) The full name of the petitioners; however, initials or a pseudonym may be used to promote the safety of the petitioners or of the child, with permission of the court;

(2) The name used for the child in the proceeding. In the petition or other orders related to the custody of the child and the final order of adoption, and in all other documents related to the case, the name selected by the petitioner as the name for the child may be used as the true and legal name of the child, and the original name of the child shall not be necessary. Only in the court report required by law on the investigation of the conditions and antecedents of the child sought to be adopted and on the form requesting the new certificate of birth by adoption shall the original name of the child given by the biological or prior legal parent or parents be necessary;

(3) The birth date, state, and county or country of birth of the child, if known;

(4) The information necessary to show that the court to which the petition is addressed has jurisdiction;

(5) That the petitioners have physical custody of the child or that they meet the requirements of § 36-1-111(d)(6), and from what person or agency such custody was or is to be obtained;

(6) That it is the desire of the petitioners that the relationship of parent and child be established between them and the child;

(7) The desire of the petitioners, if they have such, that the name of the child be changed, together with the new name desired;

(8) The value of the personal and real property owned by the child or in which the child may have some legal or equitable interest;

(9) That the petitioners are fit persons to have the care and custody of the child and that it is in the best interest of the child for this adoption to occur;

(10) That the petitioners are financially able to provide for the child;

(11) That there has been full compliance with the law in regard to surrender of the child to the petitioners, or termination of parental or guardianship rights, or consent to the adoption of the child by the agency with rights to place a child for adoption, or that the petitioner intends to effect compliance with the requirements for termination of parental or guardianship rights or parental consents as part of the adoption proceeding, and how such compliance will be effected. A copy of any orders obtained by the prospective adoptive parents terminating parental or guardianship rights and copies of any surrenders that were executed to the prospective adoptive parents shall be filed with the petition;

(12)(A) Whether the biological parent is giving parental consent for the adoption of the child as defined pursuant to § 36-1-102 and as executed pursuant to § 36-1-117(g), or that the parent is signing the petition pursuant to § 36-1-117(f) and that the parent understands that the child will be adopted by the relatives or stepparent of the child and that, in the case of the adoption by relatives, the parent will have no legal rights to the custody, control, or to visitation with the child in the future;

(B) In the case of a parental consent pursuant to § 36-1-102 and § 36-1-117(g), the petition must state that the parent understands that the entry of an order confirming the parental consent, without revoking the parental consent prior to the entry of such order, will terminate that parent's parental rights to the child forever and that the parent will have no legal rights to the custody, control, or to visitation with the child in the future;

(C) When a parent uses the procedure for a consent in the adoption of an unrelated child the parent shall also complete the information form from § 36-1-111(b)(4) no later than when the petition is signed and such form shall be filed with the court. In order to confirm a parental consent in the adoption of an unrelated child, the surrender form provided at § 36-1-111(b)(2) shall be modified to reflect applicable law and executed by the same procedure provided for execution of a surrender;

(13)(A)(i) That the Tennessee putative father registry has been consulted within ten (10) working days prior to the filing of the petition or will be consulted within ten (10) working days thereafter unless the biological father has been identified through DNA testing as described in § 24-7-112 and that identification is set out in the petition; a copy of the response to this inquiry must be provided to the court immediately upon receipt by the petitioner and prior to finalization of the adoption;

(ii) That if the child was born in a state other than Tennessee and that state has a putative father registry or equivalent, that registry has been consulted within ten (10) working days prior to the filing of the petition or will be consulted within ten (10) working days thereafter unless the biological father has been identified through DNA testing as described in § 24-7-112 and that identification is set out in the petition; a copy of the response to this inquiry must be provided to the court immediately upon receipt by the petitioner; if the state of the child's birth has no putative father registry, the petition must include a statement to that effect;

(iii) That if the petitioner knows or has reason to believe the mother was living or present in another state at the time of the child's conception and that state has a putative father registry or equivalent,

that registry has been consulted within ten (10) working days prior to the filing of the petition or will be consulted within ten (10) working days thereafter; a copy of the response to this inquiry must be provided to the court immediately upon receipt by the petitioner and prior to the finalization of the adoption; if the possible state of the child's conception has no putative father registry, the petition shall include a statement to that effect; and

(iv) That if the child is less than thirty (30) days old at the time the petition is filed, whether notice of the filing of the adoption petition has been provided to any registry required by this section;

(B) Whether there are any other persons known to the petitioner or petitioners who are entitled to notice under § 36-1-117 and the identity of such persons;

(14) Whether the child was brought into Tennessee for foster care or adoption, and, if so, that there has been full compliance with the ICPC or, if compliance has not occurred, a statement alleging good cause for such noncompliance. Evidence of compliance in the form of the ICPC Form 100A or other form from the department, if appropriate, or a sworn statement stating why such form is not required shall be included or attached as an exhibit to the petition;

(15)(A) Whether the child was brought into Tennessee for foster care or adoption from a foreign country, and, if so, evidence shall be attached to the petition showing approval of the government or legal authority in the country from which the child was brought that the child's placement with the petitioners was appropriate and that the petitioners have legal authority under that country's law to have the custody of the child;

(B) The petition shall exhibit evidence from the immigration and naturalization service, the department of justice or the department of state that the child has proper authorization to enter the United States;

(C) If a child who was the subject of an adoption decree from the foreign country must be re-adopted under Tennessee law to effect a valid adoption due to any interpretation of the United States government, the petition shall so state and state that this is necessary for the child to be legally adopted in the United States, and the court shall have jurisdiction to enter an order of adoption for this purpose;

(D) If a child is in this country and the provisions of subdivision (b)(15)(A) cannot be met, the petitioners shall file an affidavit and any other available documentary evidence satisfactory to the court that shows why there is no approval available for the child from the foreign government or legal authority in the foreign country concerning the child's placement with the petitioners;

(16)(A) Whether the petitioners have paid, or promised to pay, any money, fees, contributions, or other remuneration or thing of value in connection with the birth, placement or the adoption of the child, and if so, to or from whom, the specific amount, and the specific purpose for which these were paid or promised;

(B) The disclosure required by this subdivision (b)(16) shall specifically include whether any attorney's fees or medical expenses or counseling fees and the other expenses permitted under §§ 36-1-108 and 36-1-109 or any other fees, remuneration, or contribution, were paid or promised in connection with the child's birth, placement, or adoption and if so, to whom, the specific amount and the specific purpose for which they were

paid or promised;

(C) The disclosure required by this subdivision (b)(16) shall also specifically include the amount of fees paid to any licensed child-placing agency or licensed clinical social worker in connection with the placement of the child.

(c) The petition must be signed by each petitioner personally and must be verified and must be filed with the clerk of the court, who shall send a certified copy of the petition to the director of adoptions in the state office of the department in Nashville, and to the local office of the department or the licensed child-placing agency or licensed clinical social worker that or who has been directed to answer the order of reference issued in accordance with subsection (e) within three (3) business days after its filing.

(d) If this section requires a putative father registry check in any state other than Tennessee and that state will not permit access to its putative father registry, does not respond within thirty (30) days, or requires a fee determined by the court to be unreasonable, and the court finds that the petitioner has otherwise made diligent efforts to identify the child's biological father, the court may waive this requirement and enter an order of adoption.

(e)(1) Upon filing the adoption petition, the prospective adoptive parents shall notify the court if they have requested a home study or preliminary home study pursuant to subsection (a) and shall file or cause to be filed a copy of the court report based upon the home study or preliminary home study with the court, under seal, unless the court waives the home study or the preliminary home study for prospective adoptive parents who are related to the child.

(2)(A) Upon filing of the petition for adoption, the petitioners also shall inform the adoption court of the name of the court in which the surrender was filed, and the adoption court shall request the court where the surrender was filed to forward a certified copy of the surrender and copies of the medical and social information obtained at the time of the surrender to the adoption court and any court reports based upon home studies that were ordered by the court. This information shall be made a part of the adoption record, but shall be confidential and shall be placed in a sealed envelope within the court file or shall be filed in a protected electronically maintained file and shall remain under seal and shall not be open to inspection by any person or agency other than the department or the licensed child-placing agency or licensed clinical social worker to which the order of reference is issued under this subsection (e), except by written order of the court or as otherwise permitted under this part.

(B) Unless waived by the court in accordance with subdivision (e)(1), the court shall order a licensed child-placing agency or licensed clinical social worker, or the department if the petitioners are indigent under federal poverty guidelines, to conduct a preliminary home study, and a court report based upon such a study must be submitted within fifteen (15) days of the date of the order if, at the time the petition is filed, the petitioners have custody of the child, and the petitioners have not submitted to the court a court report based upon a timely home study or timely preliminary home study with the petition, and the court may enter any orders necessary for the child's care and protection as permitted by subsection (f) pending receipt of the preliminary home study.

(3) If no prior or updated home study of the prospective adoptive parents has been conducted and a court report filed with the court at the time the order of reference is issued and such home study has not been waived in accordance with subdivision (e)(1), then the court, within five (5) days of the date the petition is filed, shall direct the order of reference to a licensed child-placing agency or licensed clinical social worker chosen by the petitioners or, if the petitioners are indigent under federal poverty guidelines or if the child was placed with the petitioners by the department, to the department, to submit a preliminary court report, and any supplemental court reports as may be necessary, and a final court report concerning the circumstances of the child, the child's antecedents, and the proposed adoptive home. Except for good cause shown, the court shall issue the order of reference to the licensed child-placing agency, the licensed clinical social worker, or the department that conducted the home study pursuant to the prospective adoptive parents' request pursuant to subsection (a).

(4) The information in subdivision (e)(2) shall be made available to the licensed child-placing agency or licensed clinical social worker or the department which responds to the order of reference. If the necessary medical and social information was obtained by the court pursuant to § 36-1-111, it shall not be necessary for the department or the licensed child-placing agency or licensed clinical social worker to have any further contact with the biological parents in response to the order of reference, unless it is believed the information contained in the statements is inaccurate or incomplete, in which case the department, licensed child-placing agency, or the licensed clinical social worker may contact the biological or prior legal parents or the guardian to obtain such information.

(5)(A) A preliminary court report shall be filed by the department, the licensed child-placing agency or the licensed clinical social worker within sixty (60) days of the receipt of the order of reference and may be supplemented from time to time as the licensed child-placing agency, the licensed clinical social worker or the department determines necessary, or as ordered by the court.

(B) A final court report shall be submitted immediately prior to the finalization of the adoption upon fourteen (14) days' notice to the department, the licensed child-placing agency, or the licensed clinical social worker.

(6) Court filings in adoption actions by public or private agencies or parties, offered as proof of parentage, termination of parental rights, or related to establishment or termination of guardianship, may be reviewed by all parties to the case unless the court grants a protective order. If there is no protective order, the agency that made the filing shall, at the time of the filing, send a paper or encrypted electronic copy of the filing to the attorney for the petitioners. Petitioners' counsel and the court must receive the submission at least two (2) business days prior to the scheduled hearing to finalize the adoption. A protective order may be requested by motion of any party or by the agency that made the filing. A protective order shall be granted upon showing of good cause to restrict the information; such cause shall be proven by a preponderance of evidence. The protective order shall be as narrow as possible while still offering the protections that the court found to be warranted.

(f)(1) Upon the filing of the petition, the court shall have exclusive jurisdiction of all matters pertaining to the child, including the establishment of

paternity of a child pursuant to chapter 2, part 3 of this title, except for allegations of delinquency, unruliness or truancy of the child pursuant to title 37; provided, that, unless a party has filed an intervening petition to an existing adoption petition concerning a child who is in the physical custody of the original petitioners, the court shall have no jurisdiction to issue any orders granting custody or guardianship of the child to the petitioners or to the intervening petitioners or granting an adoption of the child to the petitioners or to the intervening petitioners unless the petition affirmatively states, and the court finds in its order, that the petitioners have physical custody of the child at the time of the filing of the petition, entry of the order of guardianship, or entry of the order of adoption, or unless the petitioners otherwise meet the requirements of § 36-1-111(d)(6).

(2) Except for proceedings concerning allegations of delinquency, unruliness, or truancy of the child under title 37, any proceedings that may be pending seeking the custody or guardianship of the child or visitation with the child who is in the physical custody of the petitioners on the date the petition is filed, or where the petitioners meet the requirement of § 36-1-111(d)(6), shall be suspended pending the court's orders in the adoption proceeding, and jurisdiction of all other pending matters concerning the child and proceedings concerning establishment of the paternity of the child shall be transferred to and assumed by the adoption court; provided, that until the adoption court enters any orders affecting the child's custody or guardianship as permitted by this part, all prior parental or guardian authority, prior court orders regarding custody or guardianship, or statutory authority concerning the child's status shall remain in effect. Actions suspended by this section, regardless of the stage of adjudication, shall not be heard until final adjudication of the action for termination of parental rights or adoption regarding the same child, even if such adjudication of the termination of parental rights or adoption will render the custody, guardianship, or visitation action moot.

(3) If no prior order of guardianship or custody has been entered giving guardianship or legal custody to the petitioners, the court may, upon receipt of a satisfactory preliminary home study or a satisfactory home study, and if the petitioners have physical custody of the child or otherwise meet the requirements of § 36-1-111(d)(6), issue an order of guardianship or custody with the same authority given to the petitioners as is provided pursuant to §§ 36-1-102 and 37-1-140 as the case may be.

(4) If an order of guardianship is entered pursuant to this part, the petitioner or petitioners shall have authority to act as guardian ad litem or next friend of the child in any suit by the child against third parties while the child is in the care and custody of the petitioners.

(g)(1) The court shall order a licensed child-placing agency or licensed clinical social worker, or the department if the parents are indigent under federal poverty guidelines or if the child was placed with the prospective adoptive parents by the department, to provide supervision for the child who is in the home of prospective adoptive parents and to make any necessary reports that the court should have concerning the welfare of the child pending entry of the final order in the case; provided, that the court may waive this requirement when the child is to be adopted by related persons.

(2) Unless they are indigent under federal poverty guidelines, the prospective adoptive parents shall pay the costs of the home study and the supervision required by this subsection (g) and the supervision required by

the court.

(h) The filing of a petition for involuntary termination of parental rights with or without an adoption shall be deemed the commencement of a custody proceeding. A petition for adoption, with or without a voluntary termination of parental rights or consent, shall not be deemed the commencement of a custody proceeding for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), compiled in chapter 6, part 2 of this title.

(i) If the court grants guardianship or custody of the child upon the filing of the petition or at any time thereafter to any person, and the child is possessed of any real or personal property to be administered, the court shall appoint a guardian of the property of the child if no guardian or trustee is currently appointed to care for the child's property.

(j) When the husband and wife are joint petitioners, the death of one (1) spouse shall not result in the dismissal of the petition for adoption for that reason alone, and the court may proceed to grant the adoption to the surviving petitioner.

(k)(1) The department, a licensed child-placing agency, or a licensed clinical social worker shall have the right to intervene in the adoption proceeding at any time to present evidence as to the best interests of the child by filing a sworn complaint in the adoption proceeding.

(2)(A) Subject to subsection (f), the court may make any necessary orders upon its own motion or upon the sworn complaint of the department, a licensed child-placing agency, or a licensed clinical social worker for the protection and welfare of the child, including emergency ex parte orders for the immediate care and protection of the child as permitted pursuant to § 36-1-111(v)(1)(A)-(C).

(B) Any emergency ex parte orders for the protection of the child may be entered if the court finds probable cause to believe that the child's immediate health or safety would be endangered. The ex parte order may direct the removal of the child from the custody of the prospective adoptive parents.

(3) If an ex parte order of protection is entered that removes the child from the custody of the prospective adoptive parents, a preliminary hearing shall be held within five (5) days, excluding Saturdays, Sundays and legal holidays, to determine the need for the continuance of such order.

(4) The prospective adoptive parents shall be necessary parties at the preliminary hearing and the court may order the department or the licensed child-placing agency or licensed clinical social worker to provide any necessary information or court reports concerning the welfare of the child as it may require.

(5) If the court determines at the preliminary hearing that there is probable cause to believe that the child's health or safety will be immediately endangered if the child remains in or is returned to the custody of the prospective adoptive parents, or that any other orders must be entered to ensure the health and safety of the child, it shall make such orders as are necessary to protect the child and may continue or place temporary legal custody of the child with the department or a licensed child-placing agency or any other suitable persons approved by the department or a licensed child-placing agency or licensed clinical social worker.

(6) The court shall set a final hearing concerning the allegations involving the prospective adoptive parents within thirty (30) days, except for good

cause shown in an order entered by the court.

(7) If the court determines upon clear and convincing evidence at a final hearing that it should make another disposition of the child, it may remove the child from the custody of the prospective adoptive parents and may make any other orders necessary for the child's welfare and best interests, including an alternate custody or guardianship order for the child, and the court may dismiss the adoption petition as provided in § 36-1-118. If the court does not find by clear and convincing evidence that it should make another disposition of the child, it shall dismiss the complaint that had made the allegations concerning the child's best interests and the adoption proceedings shall continue pending further orders of the court.

36-1-117. Parties to proceedings — Termination of rights of putative father — Consent of parent or guardian — Service of process.

(a) Unless the legal parent, guardian, or any putative father of the child has surrendered parental or guardianship rights to the child, executed a parental consent, or waived the person's rights pursuant to § 36-1-111(w) or (x), or unless the person's rights have been terminated by court order, such person must be made a party to the adoption proceeding or to a separate proceeding seeking termination of those rights and those rights must be terminated prior to entry of an order of adoption.

(b)(1) If a petition has been filed to establish paternity of the child who is the subject of the adoption proceeding, the adoption court shall have exclusive jurisdiction to hear and decide any paternity petition filed in the adoption proceeding or that has been transferred to it pursuant to § 36-2-307.

(2) The paternity petition shall be heard and concluded prior to any action by the adoption court to determine whether to grant the petition for adoption.

(3)(A) The petition shall be granted if it is shown by a preponderance of the evidence that the person alleged to be the father of the child is the father of the child; provided, that the entry of such an order shall not prevent the filing and consideration of a petition pursuant to § 36-1-113.

(B) If the petition to establish paternity is granted, then the parental rights of the legal father must be terminated as provided by § 36-1-113 or as otherwise provided by law, or the legal father must execute a surrender under § 36-1-111, file a parental consent, or the legal father must co-sign the petition for adoption pursuant to subsection (f) before the court may be authorized to order an adoption of the child.

(4) If grounds for termination of parental rights do not exist, then the child's legal father shall be granted custody of the child, unless the court determines, upon clear and convincing evidence, that the legal father is unable currently to provide proper custodial care for the child, in which case the court shall make such orders as may be necessary for the child's care and supervision pursuant to § 37-1-140; or unless the child's mother's rights have not been previously terminated, in which case the court shall make a determination of the custodial status of the child between the legal father and the mother, and the court may make such other orders as are necessary to provide for the child's care and supervision. If the court determines that neither parent is suitable to provide for the care of the child, it shall make such other orders as it may determine are necessary for the child's care and

supervision.

(5) If the petition to establish paternity is not granted by the court after a hearing and determination based upon subdivision (3), then the court may enter an order to that effect specifying the basis for the determination, and may proceed with the adoption proceeding without further need to terminate the rights of that putative father.

(6) The Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), compiled in chapter 6, part 2 of this title, shall govern jurisdiction of the adoption court in this state if a paternity proceeding has been filed by the putative father in another state, territory, or foreign country.

(c) The parental rights of the putative father of a child who has not filed a petition to establish paternity of the child or who has not established paternity of the child who is the subject of an adoption proceeding and who meets any of the following criteria shall be terminated by surrender, parental consent, termination of parental rights pursuant to § 36-1-113, or by waiver of interest, before the court may enter an order of adoption concerning that child:

(1) The biological father of a child has filed with the putative father registry, pursuant to § 36-2-318, as described in § 36-1-113(d)(3)(A), a statement of an intent to claim paternity of the child at any time prior to or within thirty (30) days after the child's birth and has notified the registry of all address changes;

(2) [Deleted by 2018 amendment.]

(3) The biological father has claimed to the child's biological mother, or to the petitioners or their attorney, or to the department, a licensed child-placing agency, or a licensed clinical social worker who or that is involved in the care, placement, supervision, or study of the child that the biological father believes that the biological father is the father of the child; provided, that if the biological father has previously notified the department of the biological father's claim to paternity of the child pursuant to the putative father registry, § 36-2-318(e)(3), the biological father shall be subject to all the requirements for waiver of notice provisions of § 36-2-318(f)(2) and to all requirements for filing a paternity petition;

(4) The biological father is recorded on the child's birth certificate as the father of the child;

(5) The biological father is openly living with the child at the time the adoption proceeding is commenced and is holding himself out as the father of the child; provided, that if custody of the child has been removed from the biological mother by court order, notice shall be given to any man who was openly living with the child at time of the initiation of the custody or guardianship proceeding that resulted in the removal of the custody or guardianship of the child from the biological mother or biological father, if the man held himself out to be the father of the child at the time of the removal; or

(6) The biological father has entered a permanency plan under title 37, chapter 2, part 4, or under similar provisions of any other state or territory in which the biological father acknowledges paternity of the child.

(d)(1) Other biological or legal relatives of the child or the adult are not necessary parties to the proceeding and shall not be entitled to notice of the adoption proceedings unless they are the guardian or custodian of the child or the conservator of the adult at the time the petition is filed.

(2) The legal custodian of the child may only receive notice of the

proceeding and may only present evidence as to the child's best interests.

(e) Any public or private agency that may have custody or complete or partial guardianship of the child and that has not given consent as provided under this part shall be made a defendant and given notice of the filing of the adoption or termination of parental or guardian rights petition filed under this part or under title 37, and shall be permitted to assert its rights to custody or guardianship of the child.

(f) When the child is related to one (1) of the petitioners or is the stepchild of the petitioner, and the legal or biological parent or parents or guardian or guardians of the child signs the adoption petition as a co-petitioner for the specific purpose, as stated in the petition, of giving consent to the adoption, no further surrender, parental consent, or termination of parental rights shall be required as to that parent or guardian, as the act of joining in the adoption petition shall be deemed a complete surrender, notwithstanding subsection (g), and no further notice or service of process need be made to that person; provided, that where the stepparent of a stepchild seeks to adopt a stepchild, the co-signing of the petition by the child's parent who is the spouse of the petitioner shall not affect the existing parent/child legal relationship between that parent and the parent's child who is the subject of the adoption petition by the stepparent of the child.

(g)(1) A parent may sign a petition for adoption as provided by § 36-1-102 for the purpose of giving parental consent to the adoption of the parent's child by unrelated persons. The petition must state that the parent understands that the entry of an order confirming the parental consent, without revoking the parental consent prior to the entry of such order, will terminate that parent's parental rights to the child forever and that the parent will have no legal rights to the custody, control, or to visitation with the child in the future.

(2) It is specifically and expressly declared that the act of signing the adoption petition shall not terminate the parental rights of such parent until the court where the adoption petition is filed has entered an order confirming the parental consent and until the court shall have required such parent to answer, under oath, each of the questions required of parents pursuant to § 36-1-111(b)(4).

(3) The parent signing the petition for the purpose of giving parental consent shall be provided ten (10) calendar days' written notice by the court of the appearance date for the required response to the court pursuant to § 36-1-111 before entry of the order confirming the parental consent is entered by the court. Unless the parent is disabled or the parent's appearance is impracticable as determined by the court, that parent must personally attend the hearing before the court in chambers. If the parent is disabled or the parent's appearance is impracticable as determined by the court, the answers shall be taken under oath at the parent's location by the court or by any person appointed by an order of the court to do so. If the parent executing the parental consent cannot be found or does not appear at the time of such hearing, the court may terminate that parent's rights upon any grounds available pursuant to § 36-1-113.

(4) Following the satisfactory completion of such questions, which shall be recorded on the forms required pursuant to § 36-1-111, the court shall enter an order that confirms the parental consent, and the court shall then, and only then, be authorized to enter an order terminating such parent's rights

to the child who is the subject of the adoption petition; provided, that a parental consent may be revoked at any time prior to the entry of an order of confirmation of the parental consent by the court by executing a revocation form as provided in § 36-1-112, and such revocation shall negate and void the parental consent executed pursuant to this subsection (g).

(5) The death of the consenting parent or termination of parental rights of such parent by a validly executed surrender or by court action prior to the entry of the adoption order will make any requirements for the parental consent contained herein unnecessary.

(6) Upon entry of the order of confirmation, the clerk shall send certified copies of the order to the adoptions unit in the state office of the department in Nashville.

(h) The department, through any authorized person, or the executive head of such licensed child-placing agency may give consent to the adoption of the child by the petitioners for whom it holds complete or partial guardianship.

(i)(1) When the child who is the subject of the adoption is fourteen (14) years of age or older at any time before the granting of the petition, the adoption court must receive the sworn, written consent of such child to the adoption, which shall be filed with the record, and the consent of such minor shall be recited in the order of adoption. The court shall receive the consent and testimony from the child in chambers with only the child and a guardian ad litem if required and appointed by the court for the child present.

(2) If the child is mentally disabled, the court shall appoint a guardian ad litem to give or withhold consent for the child to the adoption and the court shall follow the procedure of subdivisions (j)(2)(B) and (C).

(j)(1) When the person sought to be adopted is eighteen (18) years of age or older, only the sworn, written consent of the person sought to be adopted shall be required and no order of reference or any home studies need be issued.

(2)(A) If the adult person to be adopted has been adjudicated incompetent, then the written consent of the adult person's conservator shall be required.

(B) If the person is without a conservator and the court has reason to believe that the person is incompetent to give consent, then the court shall appoint a guardian ad litem who shall investigate the person's circumstances and that guardian ad litem shall give or withhold consent.

(C) The guardian ad litem shall file a written report stating the basis for the decision and the court shall afford a hearing to all parties to present evidence as to the best interests of the person, and if the court determines upon clear and convincing evidence that the decision to withhold consent by the guardian ad litem is arbitrary and is not in the best interests of the incompetent person, it may proceed to make any other orders it deems necessary for the person's welfare, including granting the adoption petition.

(3) In all other situations under this subsection (j) for adult persons who are the subject of an adoption petition, no order of reference, social investigation, report to the court by a licensed child-placing agency or licensed clinical social worker or the department, or the waiting period under § 36-1-119 shall be required.

(k) When the child has been surrendered or parental rights have been relinquished to an agency operating under the laws of another state, territory,

or foreign country, or such agency has received guardianship or the right to place a child for adoption pursuant to the laws of its jurisdiction, the surrender or relinquishment, or any order terminating parental rights, and the written consent of the agency pursuant to the laws of its jurisdiction or pursuant to its procedures shall be filed with the adoption petition and shall be sufficient for the purposes of providing the necessary consent required by this part.

(l) If a person has surrendered that parent's parental rights or guardianship rights, if a person has filed a parental consent and the consent has been confirmed as provided herein, if a person has executed a waiver of interest pursuant to this part, if a person or agency has consented to the adoption of the child who is the subject of the adoption proceeding, or if a person's parental or guardianship rights to the child have been properly terminated, no notice of the adoption proceeding or service of process shall be made to that person or agency.

(m)(1) Service of process for adoption proceedings and termination proceedings in chancery and circuit courts pursuant to this part shall be made pursuant to the Tennessee Rules of Civil Procedure and the statutes governing substituted service.

(2) Service of process for proceedings to terminate parental rights in juvenile court shall be pursuant to the Tennessee Rules of Civil Procedure, unless a finding is made pursuant to Tennessee Rules of Juvenile Procedure Rule 1 that the interests of justice require otherwise, the statutory requirements of title 37, chapter 1, part 1, where not otherwise in conflict with this part, and the statutes governing substituted service.

(3) Any motion for an order for publication in these proceedings shall be accompanied by an affidavit of the petitioners or their legal counsel attesting, in detail, to all efforts to determine the identity and whereabouts of the parties against whom substituted service is sought.

(4) Service of process for juvenile court proceedings may be completed by any individual authorized to serve process under the Tennessee Rules of Civil Procedure or the Tennessee Rules of Juvenile Procedure, including, but not limited to, a sheriff, constable, or private process server.

(n) The court may enter a default judgment against any party to the adoption or termination proceeding upon a finding that service of process has been validly made against that party in accordance with the Tennessee Rules of Civil or Juvenile Procedure and the statutes concerning substituted service; however, in termination proceedings, proof must be presented as to legal grounds and best interest pursuant to § 36-1-113.

(o) The response or answer to a petition for termination of parental rights shall be signed by the respondent personally, sworn to and verified, and filed with the clerk of the court.

36-1-121. Effect of adoption on relationship.

(a) The signing of a final order of adoption terminates any existing guardianship orders and establishes from that date the relationship of parent and child between the adoptive parent or parents and the adopted child as if the adopted child had been born to the adoptive parent or parents and the adopted child shall be deemed the lawful child of such parent or parents, the same as if the child had been born to the parent or parents, for all legal consequences and incidents of the biological relation of parents and children.

(b) The adopted child and the child's descendants shall be capable of

inheriting and otherwise receiving title to real and personal property from the adoptive parents and their descendants, and of succeeding to the rights of either such parent or such parent's descendants in such property, whether created by will, by other instrument or by law, including, but not limited to, taking as a beneficiary of a remainder interest following a life interest or estate in either such parent or such parent's ancestor or descendant. The adopted child shall have the same such rights as to lineal and collateral kindred of either adoptive parent and the ancestors or descendants of such kindred, as the adoptive child has as to such parent, and the lineal and collateral kindred of either adoptive parent and the descendants of such kindred shall have the same such rights as to the adopted child and the child's descendants, but only as to property of the adopted child acquired after the child's adoption.

(c) In the construction of any instrument, whether will, deed, or otherwise, whether executed before or after August 24, 1995, and whether the testator or other party creating an interest by such instrument died before or after August 24, 1995, or before or after an adoption, a child so adopted and the descendants of such child are deemed included within the class created by any limitation contained in such instrument restricting a devise, bequest or conveyance to the lawful heirs, issue, children, descendants, or the like, as the case may be, of the adoptive parent, or of an ancestor or descendant of one (1) of them, and such adopted child shall be treated as a member of such class unless a contrary intention clearly shall appear by the terms of such instrument or unless the particular estate so limited shall have vested in interest and in possession in and as to the person or persons entitled thereto on August 24, 1995; provided, that this sentence shall not apply in the construction of any instrument as to any child who is over twenty-one (21) years of age at the time of such child's adoption.

(d) "Contrary intention clearly shall appear," as set forth in this section, shall not be found by any court to exist by use in such instrument of such terms as "issue," "children" or similar legal terms, unless the instrument specifically states that adopted children are to be excluded from such class.

(e) An adopted child shall not inherit real or personal property from a biological parent or relative thereof when the relationship between them has been terminated by final order of adoption, nor shall such biological parent or relative thereof inherit from the adopted child. Notwithstanding subsection (a), if a parent of a child dies without the relationship of parent and child having been previously terminated and any other person thereafter adopts the child, the child's right of inheritance from or through the deceased biological parent or any relative thereof shall be unaffected by the adoption.

(f) A final order of adoption of a child cannot require the adoptive parent to permit visitation by any other person, nor can the final order of adoption place any conditions on the adoption of the child by the adoptive parent. This statute does not prohibit the entry of an order enforcing or modifying a contract for post-adoption contact pursuant to § 36-1-145.

(g) The adoption of a child shall have no effect upon arrearages owed by an obligor of child support for that child that existed prior to the termination of parental rights or to that child's adoption and that are owed by an obligor to any person or any governmental agency, nor shall it affect any other financial obligations of a person that may be related to the care of the adopted child prior to a surrender, termination of parental rights, or adoption involving that child.

36-1-145. Written contract for post-adoption contact between certain parties — Requirements — Enforcement — Modification — Termination.

(a) A prospective adoptive parent or an adoptive parent and a biological parent; or a prospective adoptive parent or an adoptive parent, a biological parent, and a child who is fourteen (14) years of age or older who is being adopted or who has been adopted, may voluntarily enter into a written contract for post-adoption contact that permits continued contact between legal relatives and the child. Unless expressly designated as a moral agreement only and that the agreement is not intended to be legally enforceable, a written agreement executed in accordance with this section is a contract for post-adoption contact, and is enforceable pursuant to this section. A subject child fourteen (14) years of age or older is a necessary party to a contract for post-adoption contact and is deemed to have the capacity to enter into a contract for purposes of this section.

(b) A contract for post-adoption contact may provide for privileges regarding an adopted child, including, but not limited to, visitation with the child, contact with the child, sharing of information about the child, or sharing of information about biological parents or adoptive parents.

(c) A contract for post-adoption contact must be in writing and signed by all parties to the agreement and is enforceable pursuant to this section. A verbal agreement or written statement not signed by all parties is not enforceable under this section. A provision of a contract for post-adoption contact permitting contact between an adopted child and a person legally restrained from contact with the child, or with children generally, is not enforceable under this section. A contract for post-adoption contact becomes enforceable under this section upon finalization of the anticipated adoption. Unless the parties state otherwise in the contract, a contract for post-adoption contact may be enforceable until the child being adopted reaches eighteen (18) years of age.

(d) As used in this section, “parties” means the prospective adoptive parent or adoptive parent, the biological parent, and the child if the child is fourteen (14) years of age or older at the time of the contract, but excludes any third-party beneficiary to the contract.

(e) A contract for post-adoption contact must contain the following warnings in at least fourteen (14) point boldface type:

(1) After the entry of an order of adoption, an adoption cannot be set aside due to the failure of an adoptive parent, a biological parent, or the child to follow the terms of this contract or a later change to this contract; and

(2) A disagreement between the parties or litigation brought to enforce or modify this contract shall not affect the validity of the adoption and cannot serve as a basis for orders affecting the custody of the child.

(f) Except as otherwise provided in subdivision (j)(5), the court issuing the order of adoption has continuing jurisdiction over enforcement or modification of a contract for post-adoption contact.

(g) A party to a contract for post-adoption contact may file the original contract with the court having jurisdiction over the adoption if the contract provides for court enforcement or if the contract is silent as to the issue of enforcement. A contract filed with the adoption court must be filed in the adoption action, unless an action to enforce the contract is filed. An action to enforce the contract is a new and independent action.

(h) A contract for post-adoption contact may be modified or terminated by

voluntary execution of a modification or termination agreement by all living parties to the original contract. A modified contract for post-adoption contact may be filed with the court if the contract provides for court enforcement or the contract is silent as to enforcement.

(i) A court shall not set aside an order of adoption, rescind a waiver of interest or surrender, or modify an order terminating parental rights due to the failure of a party to comply with any or all the original terms of, or subsequent modifications to, a contract for post-adoption contact.

(j) A biological parent shall not petition the court for modification of a contract for post-adoption contact. Only the adoptive parent or the child may petition the court to modify a contract for post-adoption contact. For purposes of this section, a petition to terminate a post-adoption contract will be considered a petition for modification of the contract. Any party may petition the court for enforcement of a contract for post-adoption contact. Enforcement or modification of an enforceable contract for post-adoption contact must be initiated by an appropriate party as follows:

(1) By delivering a letter, by certified mail or personal service, to all other parties to the contract stating with reasonable particularity the enforcement or modification sought and the reason for such request;

(2) The party against whom enforcement or modification is sought has thirty (30) days after receipt of the letter to provide a response;

(3) If no response is received within thirty (30) days, or the response is not satisfactory to the party initiating enforcement or modification, the adoptive parent must seek and obtain, at the parent's own expense, a written opinion from a licensed psychological professional holding a certification equal to or greater than that of clinical social worker as to the child's best interests on the issue or issues raised and a recommendation as to whether any or all of the requested enforcement or modification should occur, including any other recommendations based on the child's best interests regarding the child's relationship to the parties. The opinion of the psychological professional must be completed and provided to the other parties by the adoptive parents within ninety (90) days of the delivery of the initial notice;

(4) If the professional recommendation does not result in a resolution of the issues, or if the adoptive parent fails to obtain the opinion of a psychological professional within the time provided, the parties shall attend mediation within thirty (30) days of the release of the written recommendation or within one hundred twenty (120) days of the delivery of the initial notice. The parties may agree on a mediator, or a party otherwise authorized to do so under this section may file a petition for modification or enforcement of the contract before the court that issued the order of adoption and request appointment of a mediator. The adoptive parent is responsible for the mediation costs; and

(5) If the issues raised are not resolved after two (2) mediation sessions, the mediation reaches an impasse as determined by the mediator, or the opposing party refuses to participate in mediation, a party, if permitted under this section, may petition the court that issued the order of adoption for relief. If at that time no party resides in this state, the petition may be filed in a court with adoption jurisdiction where the child resides. Tennessee law applies to enforcement of contracts made pursuant to this section regardless of where the action is filed. The burden of proof is on the party seeking enforcement or modification. The standard of proof is a preponder-

ance of the evidence. The best interests of the child must be the court's primary test for determining whether the contract should be modified or enforced, but the good faith of all parties, any change in circumstances since the contract was executed, and each party's compliance with the contract to date, are also relevant considerations. The court may consider such other evidence as is appropriate to reach an equitable resolution.

(k) Any further requests for enforcement or modification based on the same or similar allegations made by the same party must be filed at the expense of the moving party directly in the court that granted the order for adoption. A party determined by the court to be noncompliant must overcome a presumption of bad faith.

(l) Court costs and attorney fees incurred by any party to the contract and the fees of any attorney for the child incurred under subsection (j)(5) may be taxed to all or any parties. The good faith and means of each party are to be primary considerations for apportionment of fees and expenses.

(m) Should an adoptive parent lose legal custody of the child, the process in this section to enforce a contract for post-adoption contact must be suspended until such time as custody is restored. However, a subsequent custodian may choose to comply with the contract as a moral agreement.

36-1-146. Rebuttable presumption that guardian ad litem's fees divided equally between parties.

If a court appoints a guardian ad litem in a pending adoption proceeding, there will be a rebuttable presumption that the guardian ad litem's fees shall be divided equally between the parties, excluding the person being adopted; provided, that if a party is found by the court to be indigent, the guardian ad litem shall charge that party's portion of the fees to the state through the administrative office of the courts claims and payment system, and bill the remaining parties at the same hourly rate as paid by the administrative office of the courts claims and payment system.

36-2-318. Putative father registry.

(a) The department of children's services shall establish a putative father registry, which shall be maintained by the department's adoptions unit in the department's state office in Nashville.

(b) The registrar of the division of vital records of the department of health shall notify the department's registry of all orders of parentage received by the registrar pursuant to § 36-2-311, or of any acknowledgements of parentage received by the registrar pursuant to § 68-3-203(g), § 68-3-302 or § 68-3-305(b), on a form or by any electronic information exchange method agreed upon by the commissioners of children's services and health. Such notification shall occur on a daily basis in order to update the putative father registry on a current basis.

(c) The registry shall contain the names of the persons listed in subdivision (e)(3) and any other information required in subdivisions (e)(1)-(3).

(d)(1) Those persons contained on the registry must be given notice by the petitioners in proceedings for the adoption of a child and, except as they may waive their rights under subsection (f), must have their parental rights to the child terminated prior to entry of an adoption order, as may be required pursuant to chapter 1, part 1 of this title, unless they have executed a surrender, waiver of interest, or parental consent as provided in chapter 1,

part 1 of this title.

(2) Nothing in this section shall be construed to eliminate the requirement to terminate the parental rights of any person if such person meets all of the requirements of a legal or biological parent pursuant to § 36-1-117, even if such person is not registered.

(e) The registry shall contain the names of the following persons:

(1) Those persons, their addresses, if available, the name of the child, and the name of the biological mother of the child, if available, for whom the registrar of the division of vital records has a record that an order of parentage has been entered involving any person and those persons for whom the registrar has a record of any acknowledgement of parentage executed under § 68-3-203(g), § 68-3-302 or § 68-3-305(b), and their addresses, if available, the name of the child, and the name of the biological mother of the child appearing on the acknowledgment;

(2) Those persons who have filed with the registry a certified copy of a court order from this state or any other state or territory of the United States or any other country that adjudicates such person to be a father of a child born out of wedlock, and those persons who have filed with the registry a copy of a sworn acknowledgement of parentage executed pursuant to the law of this state or pursuant to the law of any other state or territory or any other country; or

(3) Those persons who have filed only a written notice of intent to claim paternity of a child with the putative father registry either prior to, or within thirty (30) days after, the birth of such child.

(f)(1) Those persons who have filed only a written notice of intent to claim parentage of a child pursuant to subdivisions (e)(2) and (3) shall include with such notice of such person's name, current address and current telephone number, if any, and, if filed under subdivision (e)(3), shall include the name of the child, if known, for whom such person claims parentage and the name of the child's biological mother and the current legal or physical custodian, and their address and telephone number, if known, any other information that may identify the child and the child's whereabouts. This information shall be maintained on the registry.

(2) The person filing written notice of intent to claim parentage pursuant to subdivision (e)(3) shall be responsible for notifying the registry of any change of address and telephone number within ten (10) days of that change. Failure to do so within the ten-day period shall constitute a waiver of any right to notice of any proceedings for the adoption of the child for whom the person seeks to claim parentage, unless such person is otherwise entitled to notice pursuant to § 36-1-117(b) or (c).

(g) A person who has filed a notice of intent to claim parentage under subdivision (e)(3) may revoke the notice at any time in writing to the registry, and upon receipt of such notification by the registry, the notice of intent to claim parentage shall be deemed a nullity as of the date it is filed.

(h) Any notice of intent to claim parentage filed under subsection (e), whether revoked or still in effect, may be introduced in evidence by any other party, other than the person who filed such notice, in any proceeding in which the parentage of a child may be relevant, including proceedings seeking payment of child support, medical payments on behalf of the child, or any other payments, or that may involve the payment of damages involved in connection with such parentage.

(i) Any person listed on the registry pursuant to subdivisions (e)(1)-(3) by

the department shall be notified by the department, based upon the information filed with the registry, of any proceedings for the adoption of any child or the termination of parental rights of any child of which the department's state office adoption unit has actual notice of filing and for whom the registrant has made a claim of parentage, unless the person has previously executed an unrevoked surrender of the child or waiver of interest pursuant to § 36-1-111, or has consented to the child's adoption in accordance with chapter 1, part 1, of this title, or unless the person's parental rights have been terminated by court action.

(j) A person listed on the registry and entitled to notice of pending adoption or termination proceedings under subdivision (e)(3) shall have thirty (30) days from the receipt of such notice to file a complaint for parentage or to intervene in the adoption proceedings or termination of parental rights proceedings for the purpose of establishing a claim to parentage of the child or to present a defense to the termination or adoption case. The failure of such person to file a petition to intervene shall be sufficient cause for the court where the adoption proceedings or termination proceedings are pending to terminate the parental rights, if any, of such person pursuant to § 36-1-113(g)(9)(A)(vi).

(k) At the time a person files a written notice of intent to claim paternity under subsection (e), the registry shall notify such person of the provisions of §§ 68-11-255, 36-1-142, 36-1-102(1)(A)(v), and 37-2-402(1)(A)(v), concerning abandoned infants and shall inform such person that it is the duty of such person to make appropriate inquiries concerning any possibly relevant birth.

36-3-104. Conditions precedent to issuance of license.

(a)(1) No county clerk or deputy clerk shall issue a marriage license until the applicants make an application in writing, stating the names, ages, addresses and social security numbers of both the proposed male and female contracting parties and the names and addresses of the parents, guardian or next of kin of both parties. The application shall be sworn to by both applicants. Should either individual be incarcerated, the inmate shall not be made to appear but shall submit a notarized statement containing the name, age, current address and a name and address of the individual's parents, guardian or next of kin. If an applicant has a disability that prevents the applicant from appearing, the applicant may submit a notarized statement containing the person's name, age, current address and the names and address of the parents, guardian or next of kin.

(2)(A) If an applicant is a member of the armed forces of the United States stationed in another country in support of combat or another military operation, the applicant shall submit:

- (i) A notarized statement containing the applicant's name, age, address in the United States, if applicable, and the names and addresses of the applicant's parents, guardian, or next of kin;
- (ii) A certified copy of the applicant's deployment orders; and
- (iii) An affidavit from the battalion, ship, or squadron commander, as applicable, notarized by the judge advocate stating that the applicant is deployed.

(B) A person submitting a statement under subdivision (a)(2)(A) who intends to appear for the marriage ceremony via video conferencing pursuant to § 36-3-302(b) must indicate such intention in the statement.

(b) [Deleted by 2019 amendment.]

36-3-106. Consent of parent, guardian, next of kin, agency or custodian — “Parent” defined.

(a) When either applicant is under eighteen (18) years of age, the parents, guardian, next of kin or party having custody of the applicant shall join in the application, under oath, stating that the applicant is seventeen (17) years of age or over and that the applicant has such person’s consent to marry.

(b) If the applicant is in the legal custody of any public or private agency or is in the legal custody of any person other than a parent, next of kin or guardian, then such person or the duly authorized representative of such agency shall join in the application with the parent, guardian or next of kin stating, under oath, that the applicant is seventeen (17) years of age but less than eighteen (18) years of age and that the applicant has such person’s consent to marry. This subsection (b) does not apply to applicants who are in the legal custody of the department of mental health and substance abuse services or the department of intellectual and developmental disabilities.

(c) The parents, guardian, next of kin, other person having custody of the applicant, or duly authorized representative of a public or private agency having legal custody of the applicant shall join in the application either by personal appearance before the county clerk or deputy county clerk, or by submitting a sworn and notarized affidavit.

(d) The consent of the applicant’s parents, guardian, next of kin, other person having custody of the applicant, or duly authorized representative of a public or private agency having legal custody of the applicant is not required if the applicant is emancipated at the time of the application.

(e) Marriage shall remove the disabilities of minority. A minor emancipated by marriage shall be considered to have all the rights and responsibilities of an adult, except for specific constitutional or statutory age requirements, including voting, the use of alcoholic beverages, and other health and safety regulations relevant to the minor because of the minor’s age.

(f) A minor shall be advised of the rights and responsibilities of parties to a marriage and of emancipated minors. The minor shall be provided with a fact sheet on these rights and responsibilities to be developed by the administrative office of the courts. The fact sheet shall include referral information for legal aid agencies in this state and national hotlines for domestic violence and sexual assault.

(g) As used in this section, “parent” or “parents” means a person or persons listed as a parent on the child’s birth certificate or who have been adjudicated to be the legal parent of the child by a court of competent jurisdiction.

36-3-301. Persons who may solemnize marriages.

(a)(1) All regular ministers, preachers, pastors, priests, rabbis and other spiritual leaders of every religious belief, more than eighteen (18) years of age, having the care of souls, and all members of the county legislative bodies, county mayors, judges, chancellors, former chancellors and former judges of this state, former county executives or county mayors of this state, former members of quarterly county courts or county commissions, the governor, the speaker of the senate and former speakers of the senate, the speaker of the house of representatives and former speakers of the house of representatives, members of the general assembly who have filed notice pursuant to subsection (l), law enforcement chaplains duly appointed by the

heads of authorized state and local law enforcement agencies, members of the legislative body of any municipality in this state, the county clerk of each county, former county clerks of this state who occupied the office of county clerk on or after July 1, 2014, and the mayor of any municipality in the state may solemnize the rite of matrimony. For the purposes of this section, the several judges of the United States courts, including United States magistrates, United States bankruptcy judges, and federal administrative law judges, who are citizens of Tennessee are deemed to be judges of this state. The amendments to this section by Acts 1987, ch. 336, which applied provisions of this section to certain former judges, do not apply to any judge who has been convicted of a felony or who has been removed from office.

(2) In order to solemnize the rite of matrimony, any such minister, preacher, pastor, priest, rabbi or other spiritual leader must be ordained or otherwise designated in conformity with the customs of a church, temple or other religious group or organization; and such customs must provide for such ordination or designation by a considered, deliberate, and responsible act. Persons receiving online ordinations may not solemnize the rite of matrimony.

(3) If a marriage has been entered into by license issued pursuant to this chapter at which any minister officiated before July 1, 2019, the marriage must not be invalid because the requirements of the preceding subdivision (a)(2) have not been met.

(b) The traditional marriage rite of the Religious Society of Friends (Quakers), whereby the parties simply pledge their vows one to another in the presence of the congregation, constitutes an equally effective solemnization.

(c) Any gratuity received by a county mayor, county clerk, members of the county legislative body, or municipal mayor for the solemnization of a marriage, whether performed during or after such person's regular working hours, shall be retained by such person as personal remuneration for such services, in addition to any other sources of compensation such person might receive, and such gratuity shall not be paid into the county general fund or the treasury of such municipality.

(d) If any marriage has been entered into by license regularly issued at which a county mayor officiated prior to April 24, 1981, such marriage shall be valid and is hereby declared to be in full compliance with the laws of this state.

(e) For the purposes of this section, "retired judges of this state" is construed to include persons who served as judges of any municipal or county court in any county that has adopted a metropolitan form of government and persons who served as county judges (judges of the quarterly county court) prior to the 1978 constitutional amendments.

(f) If any marriage has been entered into by license regularly issued at which a retired judge of this state officiated prior to April 13, 1984, such marriage shall be valid and is hereby declared to be in full compliance with the laws of this state.

(g) If any marriage has been entered into by license issued pursuant to this chapter at which a judicial commissioner officiated prior to March 28, 1991, such marriage is valid and is declared to be in full compliance with the laws of this state.

(h) The judge of the general sessions court of any county, and any former judge of any general sessions court, may solemnize the rite of matrimony in any county of this state. Any marriage performed by any judge of the general sessions court in any county of this state before March 16, 1994, shall be valid

and declared to be in full compliance with the laws of this state.

(i) All elected officials and former officials, who are authorized to solemnize the rite of matrimony pursuant to subsection (a), may solemnize the rite of matrimony in any county of this state.

(j) If any marriage has been entered into by license issued pursuant to this chapter at which a county mayor officiated outside such mayor's county prior to May 29, 1997, such marriage is valid and is declared to be in full compliance with the laws of this state.

(k) The judge of the municipal court of any municipality, whether elected or appointed, shall have the authority to solemnize the rite of matrimony in any county of the state.

(l) In order to solemnize the rite of matrimony pursuant to subdivision (a)(1), a member of the general assembly must first opt in by filing notice of the member's intention to solemnize the rite of matrimony with the office of vital records.

36-3-601. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Abuse" means inflicting, or attempting to inflict, physical injury on an adult or minor by other than accidental means, placing an adult or minor in fear of physical harm, physical restraint, malicious damage to the personal property of the abused party, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by an adult or minor, or placing an adult or minor in fear of physical harm to any animal owned, possessed, leased, kept, or held by the adult or minor;

(2) "Adult" means any person eighteen (18) years of age or older, or who is otherwise emancipated;

(3)(A) "Court", in counties having a population of not less than two hundred sixty thousand (260,000) nor more than eight hundred thousand (800,000), according to the 1980 federal census or any subsequent federal census, means any court of record with jurisdiction over domestic relation matters;

(B) Notwithstanding subdivision (3)(A), "court," in counties with a metropolitan form of government with a population of more than one hundred thousand (100,000), according to the 1990 federal census or any subsequent federal census, means any court of record with jurisdiction over domestic relation matters and the general sessions court. In such county having a metropolitan form of government, a judicial commissioner may issue an ex parte order of protection. Nothing in this definition may be construed to grant jurisdiction to the general sessions court for matters relating to child custody, visitation, or support;

(C) "Court," in all other counties, means any court of record with jurisdiction over domestic relation matters or the general sessions court;

(D) "Court" also includes judicial commissioners, magistrates and other officials with the authority to issue an arrest warrant in the absence of a judge for purposes of issuing ex parte orders of protection when a judge of one of the courts listed in subdivisions (3)(A), (3)(B) or (3)(C) is not available;

(E) In counties having a population in excess of eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal

census, “court” means any court of record with jurisdiction over domestic relations matters or the general sessions criminal court. In such counties, “court” also includes judicial commissioners, magistrates and other officials with the authority to issue an arrest warrant in the absence of a judge for purposes of issuing any order of protection pursuant to this part when a judge of one of the courts listed in subdivisions (3)(A), (3)(B) or (3)(C) is not available. Nothing in this definition may be construed to grant jurisdiction to the general sessions court, both criminal and civil, for matters relating to child custody, visitation, or support;

(F) Any appeal from a final ruling on an order of protection by a general sessions court or by any official authorized to issue an order of protection under this subdivision (3) shall be to the circuit or chancery court of the county. Such appeal shall be filed within ten (10) days and shall be heard de novo;

(4) “Domestic abuse” means committing abuse against a victim, as defined in subdivision (5);

(5) “Domestic abuse victim” means any person who falls within the following categories:

(A) Adults or minors who are current or former spouses;

(B) Adults or minors who live together or who have lived together;

(C) Adults or minors who are dating or who have dated or who have or had a sexual relationship. As used herein, “dating” and “dated” do not include fraternization between two (2) individuals in a business or social context;

(D) Adults or minors related by blood or adoption;

(E) Adults or minors who are related or were formerly related by marriage; or

(F) Adult or minor children of a person in a relationship that is described in subdivisions (5)(A)-(E);

(6) “Firearm” means any weapon designed, made or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use;

(7) “Petitioner” means the person alleging domestic abuse, sexual assault or stalking in a petition for an order for protection;

(8) “Preferred response” means law enforcement officers shall arrest a person committing domestic abuse unless there is a clear and compelling reason not to arrest;

(9) “Respondent” means the person alleged to have abused, stalked or sexually assaulted another in a petition for an order for protection;

(10) “Sexual assault victim” means any person, regardless of the relationship with the perpetrator, who has been subjected to, threatened with, or placed in fear of any form of rape, as defined in § 39-13-502, § 39-13-503, § 39-13-506 or § 39-13-522, or sexual battery, as defined in § 39-13-504, § 39-13-505, or § 39-13-527;

(11) “Stalking victim” means any person, regardless of the relationship with the perpetrator, who has been subjected to, threatened with, or placed in fear of the offense of stalking, as defined in § 39-17-315; and

(12) “Weapon” means a firearm or a device listed in § 39-17-1302(a)(1)-(7).

36-5-101. Child support order — Jurisdiction — Amount of support — Enforcement — Modification — Insurance — Scientific parentage tests.

(a)(1) Upon dissolution of a marriage, whether dissolved absolutely or by a perpetual or temporary decree of separation, the court may make an order and decree for the suitable support and maintenance of the children by either spouse or out of such spouse's property, according to the nature of the case and the circumstances of the parties, the order or decree to remain in the court's control.

(2) Courts having jurisdiction of the subject matter and of the parties are hereby expressly authorized to provide for the future support of the children, in proper cases, by fixing some definite amount or amounts to be paid in monthly, semimonthly, or weekly installments, or otherwise, as circumstances may warrant, and such awards, if not paid, may be enforced by any appropriate process of the court having jurisdiction, including levy of execution.

(3) In interstate cases, jurisdiction to modify, alter or enforce orders or decrees for the support of children shall be determined in accordance with parts 20-29 of this chapter. In intrastate cases, jurisdiction to modify, alter or enforce orders or decrees for the support of children shall be determined in accordance with parts 30 and 31 of this chapter.

(4) As used in this chapter, "order," where the context requires, includes an order concerning child or medical support issued pursuant to an administrative proceeding in any other state.

(5) In establishing or enforcing any duty of support under this chapter, the court shall give full faith and credit to all paternity determinations of any other state or territory, made pursuant to a voluntary acknowledgment or pursuant to any administrative or judicial process.

(6) A voluntary acknowledgment of paternity that is completed under § 68-3-203(g), § 68-3-302, or § 68-3-305(b), or under similar provisions of another state or government, when certified by the state registrar or other governmental or institutional entity maintaining the record of the acknowledgment, shall be a basis for establishing a support order without requiring any further proceedings to establish paternity.

(7) The state of Tennessee, its officers, employees, agents or contractors, any counties, county officials, the clerks of any court, or any Title IV-D child support enforcement agency shall not be liable, in any case, to compensate any person for repayment of child support paid or for any other costs, as a result of the rescission pursuant to § 24-7-113 of any voluntary acknowledgment, or the rescission of any orders of legitimation, paternity, or support.

(8) When a court having jurisdiction determines child support pursuant to the Tennessee child support guidelines, based on either the actual income or the court's findings of an obligor's ability to earn income, the final child support order shall create an inference in any subsequent proceeding that the obligor has the ability to pay the ordered amount until such time as the obligor files an application with the court to modify the ordered amount.

(9) Where the lump sum amount of retirement or pension benefits or of balances in an individual retirement account, §§ 401(k), 403(b), 457 (26 U.S.C. §§ 401(k), 403(b) and 457), respectively, or any other tax qualified

account has been considered by the trial court, and determined to be marital property to be divided, the distributions of such lump sum amounts necessary to complete the division of property, whether distributed in a single payment or by periodic payments, shall not be considered income for the purpose of determining a spouse or ex-spouse's right to receive alimony or child support, but the income generated by the investment of such lump sum awards shall be considered income for such purpose.

(b)(1) Notwithstanding any other law to the contrary, neither the department of human services, nor any Title IV-D child support contractor of the department, nor any recipient of public assistance in this or any other state or territory, nor any applicant for either public assistance in this or any other state or territory or for Title IV-D child support services from the department or any other Title IV-D agency in this or any other state or territory, shall be required to demonstrate to a court or administrative tribunal that the caretaker of the child for whom child support is sought is vested with any more than physical custody of the subject child or children, in order to have standing to petition for child support from the legal parent of the child or children for whom support is sought, or to seek enforcement or modification of any existing orders involving such child or children.

(2) Legal custody of a child to whom a child support obligation is owed shall not be a prerequisite to the initiation of any support action or to the enforcement or modification of any support obligation in such cases, whether or not the obligation has been assigned to this state or any other state or territory by operation of law.

(c)(1) The court shall set a specific amount that is due each month, to be paid in one (1) or more payments as the court directs. In making any decree or order pursuant to this section, the court shall consider § 34-1-102(b). Unless the court finds otherwise, each order made under this section shall contain the current address of the parties.

(2)(A) The order or decree of the court may provide that the payments for the support of such child or children shall be paid either to the clerk of the court or directly to the spouse, or other person awarded the custody of the child or children; provided, however, that:

(i) The court shall order that all child support payments based upon an income assignment issued by the clerk be paid to the clerk of the court, except as set forth in subdivision (c)(2)(A)(ii), for child support cases that are subject to the provisions for central collection and disbursement pursuant to § 36-5-116; and

(ii) In all Title IV-D child support cases in which payment of child support is to be made by income assignment, or otherwise, and in all cases where payments made by income assignment based upon support orders entered on or after January 1, 1994, that are not Title IV-D support cases, but must be made to the central collection and disbursement unit as provided by § 36-5-116, and, except as may otherwise be allowed by § 36-5-501(a)(2)(B), the court shall only order that the support payments be made to the central collection and disbursement unit pursuant to § 36-5-116. No agreement by the parties in a parenting plan, either temporary or permanent, entered pursuant to chapter 6, part 4 of this title, or any other agreement of the parties or order of the court, except as may otherwise be allowed by § 36-5-501(a)(2)(B), shall alter the requirements for payment to the central collection and dis-

bursement unit as required by § 36-5-116, and any provision of any parenting plan, agreement or court order providing for any other payment procedure contrary to the requirements of § 36-5-116, except as may otherwise be allowed by § 36-5-501(a)(2)(B), whether or not approved by the court, shall be void and of no effect. No credit shall be given by the court, the court clerk or the department of human services, for child support payments required by the support order that are made in contravention of such requirements; provided, however, that the department may make any necessary adjustments to the balances owed to account for changes in the Title IV-D or central collection and disbursement status of the support case.

(B)(i)(a) When the court enters an order in which the paternity of a child is determined or support is ordered, enforced or modified for a child, each individual who is a party to any action pursuant to this part shall be immediately required to file with the court and, if the case is a Title IV-D child support case, shall immediately file with the local Title IV-D child support office, for entry into the state registry of support cases, and shall update, as appropriate, the parties' and, for subdivisions (c)(2)(B)(i)(a)(1)-(3), the child's or children's:

- (1) Full name and any change in name;
- (2) Date and place of birth. This information shall be filed with the court as a separate document containing the parties' and the child's or children's names, dates of birth and social security numbers. The document shall be placed in an eight and one-half inch by eleven inch (8½" x 11") envelope containing the style of the case and docket number of the case and the document and envelope shall be file stamped by the clerk, and filed under seal in the case file. The document shall also be provided by the parties to the Title IV-D child support office together with the other information required in subdivisions (c)(2)(B)(i)(a)(1)-(8). The social security numbers and other information filed with the clerk shall be available to the clerk of court for processing of documents and legal actions such as, but not limited to, divorce certificates, garnishments, and income assignments. On request, the sealed information shall be made available to the department of human services and any other agency required by law to have access to the information and to other persons or agencies as ordered by the court.
- (3) Residential and mailing addresses;
- (4) Home telephone numbers;
- (5) Driver license number;
- (6) The name, address, and telephone number of the person's employer;
- (7) The availability and cost of health insurance for the child; and
- (8) Gross annual income.

(b) The requirements of subdivision (c)(2)(B)(i)(a) may be included in the court's order.

(ii) Each individual who is a party must update changes in circumstances of the individual for the information required by subdivision (c)(2)(B)(i)(a) within ten (10) days of the date of such change. At the time of the entry of the first order pertaining to child support after July 1, 1997, clear written notice shall be given to each party of the require-

ments of this subsection (c), procedures for complying with this subsection (c), and a description of the effect or failure to comply. Such requirement may be noted in the order of the court.

(iii) In any subsequent child support enforcement action, the delivery of written notice as required by Rule 5 of the Tennessee Rules of Civil Procedure, to the most recent residential or employer address shown in the court's records or the Title IV-D agency's records, as required in subdivision (c)(2)(B)(i)(a) shall be deemed to satisfy the due process requirements for notice and service of process with respect to that party, if there is a sufficient showing and the court is satisfied that a diligent effort has been made to ascertain the location and whereabouts of the party.

(iv) Upon motion of either party, upon a showing of domestic violence or the threat of such violence, the court may enter an order to withhold from public access the address, telephone number, and location of the alleged victim or victims or threatened victims of such circumstances. The clerk of the court shall withhold such information based upon the court's specific order, but may not be held liable for release of such information.

(v) In any subsequent proceeding to modify or enforce support, there shall be a rebuttable presumption that the information provided by the parties, as required by this part, has not changed, unless a party has complied with this section by updating the information with the court and, if the case is a Title IV-D child support case, with the local Title IV-D child support office.

(d)(1) All support payments that have been paid to the clerk of the court shall be distributed by the clerk, as provided in the order of the court, within ten (10) days; provided, that the payments made to the clerk of the court in Title IV-D child support cases shall be distributed and deposited pursuant to the operating agreements under subdivisions (d)(3) and (6), after implementation of the statewide Title IV-D child support computer system in the clerk's county, and after the appropriate notice to the clerk by the department under subdivisions (d)(3) and (6).

(2) In every child support case being processed through the state's central collection and disbursement unit, if unable to provide the information concerning an order through a computer information transfer, the clerk shall send a copy of any new order or modification of such order, prior to or along with the first payment received pursuant to such order, to the department, or its designee, within ten (10) working days.

(3) Clerks participating in the operation of the statewide Title IV-D child support computer system shall be bound by the terms of the agreement and the laws, regulations, and policies and procedures of the Title IV-D child support program for the term of the agreement, unless the agreement is canceled by the department after notice to the clerk and an opportunity to correct any deficiencies caused by failure of the clerk to comply with federal or state regulations or procedures for operation of the system within thirty (30) days of such notice. While participating in the system, the clerks shall be entitled to receive the statutory fee for the collection and handling of child support obligations under the Title IV-D program. Any child support payment subject to distribution through the state's central collection and disbursement unit that has been received by a clerk shall be sent immediately by the clerk to the department or its designee, without the necessity of

a court order.

(4) The clerks of all courts involved in the collection of any child support shall cooperate with and provide any reasonable and necessary assistance to the department or its contractors in the transfer of data concerning child support to the statewide Title IV-D child support computer system.

(5) Whenever the clerk has ceased handling Title IV-D child support payments under subdivision (d)(3), and only where the context requires, all provisions in this chapter relating to the duties or actions involving the clerk shall be interpreted to substitute the department or its contractor.

(6) In all cases in which child support payments are subject to processing through the state's central collection and disbursement unit, the clerks shall, upon notice by the department, deposit all receipts of such child support payments on a daily basis to a bank account from which the state shall electronically debit those payments for the purpose of obtaining funds to distribute the child support obligations to the obligee.

(7) In all Title IV-D child support cases, child support payments shall be made by the obligor to the department. No credit shall be given to an obligor for any payments made by the obligor or by another person on behalf of the obligor, directly to an obligee or the obligor's child or children, unless the obligee remits the payment to the department. In the event that a Title IV-D case is instituted subsequent to the establishment of an order of child support, the department shall notify the obligor and obligee and the appropriate clerk of this fact, and all payments of child support in Title IV-D cases shall be made by the obligor to the department, without further order of the court.

(8) When an order provides for the support of two (2) or more children in a case that is subject to enforcement under Title IV-D, and at least one (1) child is a public charge, based upon receipt of temporary assistance pursuant to title 71, chapter 3, part 1, TennCare-medicaid, or foster care or other custodial services from the state, the child support order shall be prorated by the department for purposes of distribution of the child support to the appropriate person or agency providing care or support for the child, without the need for modification of the child support order by the court.

(e)(1)(A) In making the court's determination concerning the amount of support of any minor child or children of the parties, the court shall apply, as a rebuttable presumption, the child support guidelines, as provided in this subsection (e). If the court finds that evidence is sufficient to rebut this presumption, the court shall make a written finding that the application of the child support guidelines would be unjust or inappropriate in that particular case, in order to provide for the best interest of the child or children, or the equity between the parties. Findings that the application of the guidelines would be unjust or inappropriate shall state the amount of support that would have been ordered under the child support guidelines and a justification for the variance from the guidelines.

(B) Notwithstanding this section or any other law or rule to the contrary, if the net income of the obligor exceeds ten thousand dollars (\$10,000) per month, then the custodial parent must prove, by a preponderance of the evidence, that child support in excess of the amount provided for in the child support guidelines is reasonably necessary to provide for the needs of the minor child or children of the parties. In making the court's determination, the court shall consider all available

income of the obligor, as required by this chapter, and shall make a written finding that child support in excess of the amount so calculated is or is not reasonably necessary to provide for the needs of the minor child or children of the parties. In determining each party's income for the purpose of applying the child support guidelines, the court shall deduct each party's capital losses from that party's capital gains in each year.

(C) When making retroactive support awards, pursuant to the child support guidelines established pursuant to this subsection (e), in cases where the parents of the minor child are separated or divorced, but where the court has not entered an order of child support, the court shall consider the following factors as a basis for deviation from the presumption in the child support guidelines that child and medical support for the benefit of the child shall be awarded retroactively to the date of the parents' separation or divorce:

(i) Whether the remaining spouse knew or could have known of the location of the child or children who had been removed from the marital home by the abandoning spouse; or

(ii) Whether the abandoning spouse, or other caretaker of the child, intentionally, and without good cause, failed or refused to notify the remaining spouse of the location of the child following removal of the child from the marital home by the abandoning spouse; and

(iii) The attempts, if any, by the abandoning spouse, or other caretaker of the child, to notify the remaining spouse of the location of the child following removal of the child from the marital home by the abandoning spouse.

(D) In cases in which the presumption of the application of the guidelines is rebutted by clear and convincing evidence, the court shall deviate from the child support guidelines to reduce, in whole or in part, any retroactive support. The court must make a written finding that application of the guidelines would be unjust or inappropriate, in order to provide for the best interests of the child or children or the equity between the parties.

(E) Deviations shall not be granted in circumstances where, based upon clear and convincing evidence:

(i) The remaining spouse has a demonstrated history of violence or domestic violence toward the abandoning spouse, the child's caretaker or the child;

(ii) The child is the product of rape or incest of the mother by the father of the child;

(iii) The abandoning spouse has a reasonable apprehension of harm from the remaining spouse, or those acting on the remaining spouse's behalf, toward the abandoning spouse or the child; or

(iv) The remaining spouse, or those acting on the remaining spouse's behalf, has abused or neglected the child.

(F) In making any deviations from awarding child and medical support retroactively to the date of separation or divorce of the parties, the court shall make written findings of fact and conclusions of law to support the basis for the deviation, and shall include in the order the total amount of retroactive child and medical support that would have been paid retroactively to the date of separation or divorce of the parties, had a deviation not been made by the court.

(G) Nothing in this subdivision (e)(1) shall limit the right of the state of Tennessee to recover from the father or the remaining spouse expenditures made by the state for the benefit of the child, or the right, or obligation, of the Title IV-D child support agency to pursue retroactive support for the custodial parent or caretaker of the child, where appropriate.

(H) Any amounts of retroactive support ordered that have been assigned to the state of Tennessee, pursuant to § 71-3-124, shall be subject to the child support distribution requirements of 42 U.S.C. § 657. In such cases, the court order shall contain any language necessary to allow the state to recover the assigned support amounts.

(I)(i) In any action for retroactive child support filed on or after July 1, 2017, retroactive child support shall not be awarded for a period of more than five (5) years from the date the action for support is filed unless the court determines, for good cause shown, that a different award of retroactive child support is in the interest of justice. The burden to show that a longer time period of retroactive support is in the interest of justice is on the custodial parent. Good cause includes, but is not limited to, the following:

(a) The noncustodial parent deliberately avoided service or knowingly impeded or delayed the imposition of a support obligation;

(b) The noncustodial parent used threats, intimidation, or force to prevent or delay the imposition of a support obligation; or

(c) The custodial parent reasonably feared that the establishment of parentage would result in domestic abuse, as defined in § 36-3-601.

(ii) The court may award retroactive child support for less than the five-year-period required by subdivision (e)(1)(I)(i) if the court determines, for good cause shown, that a different award of retroactive child support is in the interest of justice. The burden to show that a shorter time period of retroactive support is in the interest of justice is on the noncustodial parent.

(iii) Upon a finding of good cause in accordance with this subdivision (e)(1)(I), the court may order retroactive support from the date the court determines to be equitable and just.

(iv) The presumption that child support for the benefit of the child be awarded retroactively to the date of the child's birth contained in the child support guidelines shall not apply to any action in which this subdivision (e)(1)(I) is applicable.

(v) Nothing in this subdivision (e)(1)(I) limits any claim for retroactive child support owed to the department of human services.

(2) Beginning October 13, 1989, the child support guidelines promulgated by the department, pursuant to the rulemaking provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, shall be the guidelines that courts shall apply as a rebuttable presumption in child support cases.

(3) Child support guidelines shall be reviewed by the department of human services every three (3) years from the date of promulgation. The department shall make recommendations to the supreme court of any revisions needed in order to maintain compliance with the Family Support Act of 1988, and to ensure that application of the guidelines results in determinations of appropriate child support awards. A copy of the recommendations shall also be sent to the judiciary committee of the house of

representatives and the health and welfare committee of the senate.

(4)(A) In addition to any other subtractions, calculations of net income under the guidelines shall take into consideration the support of any other children the obligor is legally responsible to provide. The court shall consider children of the obligor who are not included in a decree of child support, but for whom the obligor is legally responsible to provide support and is supporting, for the purposes of reducing the obligor's net income, in calculating the guideline amount, or as a reason for deviation from the guidelines.

(B) In calculating amounts of support for children under the guidelines, the court shall allocate an obligor's financial child support responsibility from the obligor's income among all children of the obligor for whom the obligor is legally responsible to provide support and is supporting, in a manner that gives equitable consideration as defined by the department's child support guidelines, to the children for whom support is being set in the case before the court and to any other children for whom the obligor is legally responsible and is supporting. The court shall require that payments, made out of that allocation for all children of the obligor for whom the obligor is legally responsible and is supporting, be made upon such consideration. Guidelines promulgated by the department shall be consistent with this subdivision (e)(4)(B).

(f)(1)(A) Any order for child support shall be a judgment entitled to be enforced as any other judgment of a court of this state, and shall be entitled to full faith and credit in this state and in any other state. Except as provided in subdivision (f)(6), such judgment shall not be subject to modification as to any time period or any amounts due prior to the date that an action for modification is filed and notice of the action has been mailed to the last known address of the opposing parties. If the full amount of child support is not paid by the date when the ordered support is due, the unpaid amount that is in arrears, shall become a judgment for the unpaid amounts, and shall accrue interest pursuant to subdivision (f)(1)(B). All interest that accumulates on arrearages shall be considered child support. Computation of interest shall not be the responsibility of the clerk.

(B)(i) Interest on unpaid child support that is in arrears shall accrue from the date of the arrearage at the rate of twelve percent (12%) per year; provided, that interest shall no longer accrue on or after April 17, 2017, unless the court makes a written finding that interest shall continue to accrue. In making such finding, the court shall set the rate at which interest shall accrue after consideration of any factors the court deems relevant; provided, that the interest rate shall be no more than four percent (4%) per year.

(ii) On or after July 1, 2018, interest on arrearages in non-Title IV-D cases shall accrue at the rate of six percent (6%) per year; provided, however, that the court, in its discretion, may reduce the rate of interest to a lower interest rate, including no interest, as deemed appropriate under the circumstances. In making its determination, the court may consider any factors the court deems relevant.

(iii) On or after July 1, 2018, interest shall not accrue on arrearages in Title IV-D cases unless the court makes a written finding that interest shall continue to accrue. In making such finding, the court shall set the

rate at which interest shall accrue after consideration of any factors the court deems relevant; provided, that the interest rate shall be no more than six percent (6%) per year.

(2) In addition to the remedies provided in part 5 of this chapter, but not as an alternative to those provisions, if a parent is more than thirty (30) days in arrears, the clerk of the court may, upon written application of the obligee parent, a guardian or custodian of the children, or the department of human services or its contractors in Title IV-D support cases, issue a summons or, in the discretion of the court, an attachment for such parent, setting a bond of not less than two hundred fifty dollars (\$250) or, in the discretion of the court, up to the amount of the arrears, for such other proceedings as may be held in the matter. In addition, the court may, at any time, require an obligor parent to give security by bond, with sufficient sureties approved by the court, or, alternatively, in the absence of the judge from the court, approved by the clerk of the court, for payment of past, present, and future support due under the order of support. If the obligor parent thereafter fails to appear or fails without good cause to comply with the order of support, such bonds may be forfeited and the proceeds from the bonds paid to the court clerk and applied to the order of support.

(3) Absent a court order to the contrary, if an arrearage for child support or fees due as court costs exists at the time an order for child support would otherwise terminate, the order of support, or any then existing income withholding arrangement, and all amounts ordered for payment of current support or arrears, including any arrears due for court costs, shall continue in effect in an amount equal to the then existing support order or income withholding arrangement, until the arrearage and costs due are satisfied, and the court may enforce all orders for such arrearages by contempt.

(4) The order of any court or administrative tribunal directing that an obligor pay a sum certain to reduce any support arrearage shall not preclude the use, by the department of human services or its contractors in the Title IV-D child support program, of any other administrative means of collecting the remaining balance of the outstanding arrearage, including, but not limited to, income tax refund intercepts, financial institution collections, enforcement of liens, or any other method authorized by law. The use of any additional administrative means of collection by the department or its contractors in the Title IV-D child support program is expressly authorized to reduce any portion, or all, of the outstanding balance of support as shown by the department's records, and any order of the court or administrative tribunal to the contrary is without any effect whatsoever, except for such appeal as may lie from the implementation of the administrative procedure that is used to reduce the arrearage.

(5)(A) In enforcing any provision of child support, if an obligee, or the department or its contractor in Title IV-D cases, specifically prays for revocation of a license because an obligor is alleged to be in noncompliance with an order of support, or if the court determines on its own motion, or on motion of a party, that any individual party has failed to comply with a subpoena or a warrant in connection with the establishment or enforcement of an order of support, the court may find, specifically, in its order that the obligor is not in compliance with an order of support as defined by part 7 of this chapter, or it may find that an individual party has failed to comply with a subpoena or warrant in connection with the establishment

or enforcement of an order of support, and may direct that any or all of the obligor's or individual party's licenses be subject to revocation, denial or suspension by the appropriate licensing authority, pursuant to part 7 of this chapter. The court shall direct the clerk to send a copy of that order to the department of human services to be sent by the department to each licensing authority specified in the order for processing and suspension, denial or revocation pursuant to § 36-5-706 and any other applicable provisions of part 7 of this chapter. Costs related to such order shall be taxed to the obligor or individual party.

(B) If the obligor whose license has been subject to subdivision (f)(5)(A) complies with the order of support, or if the individual party complies with the subpoena or warrant, the court shall enter an order making such a finding, and the clerk shall send an order immediately to the department of human services to be transmitted to each licensing authority specified in the order, which shall then immediately issue, renew or reinstate the obligor's or individual party's license, in accordance with § 36-5-707. Costs related to such order shall be taxed to the obligor or individual party, as the case may be, and shall be paid by the obligor or the individual party prior to sending the order to the department for transmission to the licensing authority.

(C) The department shall provide available information to the obligee, party or the court in actions under this subdivision (f)(5), concerning the name and address of the licensing authority or authorities of the obligor or individual party, in order to enable the enforcement of this subdivision (f)(5). The obligee or individual party, as the case may be, seeking such information shall pay a fee, as established by the department for the provision of such service. These fees may be taxed as costs to the obligor whose license has been revoked pursuant to this subdivision (f)(5), or to the individual party who has failed to comply with the warrant or subpoena.

(D) If the licensing authority fails to take appropriate action pursuant to the orders of the court under this subdivision (f)(5), the party may seek a further order from the court to direct the licensing authority to take such action, and the party may seek any appropriate court sanctions against the licensing authority.

(E) For purposes of this subdivision (f)(5), "individual party" means a party to the support action who is a person, but does not include a governmental agency, or the contractor or agent of such governmental agency, that is enforcing an order of support. "Party" may include, where the context requires, an individual person, or it may include a governmental agency or contractor or agent of such governmental agency.

(6)(A) With the approval of the court, the obligor and obligee shall have the right to compromise and settle a child support arrearage balance owed directly to the obligee. The authority is given to forgive accrued principal and interest on delinquent child support with the approval of the obligee and shall not include any monies owed to this or any other state. In all Title IV-D cases, the department of human services or its contractors must be a party to the action. Both the obligee and obligor must consent to the compromise and settlement in writing in accordance with the procedures established by the child support agency or court.

(B) Prior to giving consent, the obligee shall be provided with a written explanation of the compromise and settlement and of the obligee's rights

with respect to child support arrears owed to the obligee. In no event may an offer of compromise and settlement of any child support arrears owed directly to the obligee be accepted unless the obligee consents to the offer of compromise and settlement in writing.

(C) To be eligible for a compromise and settlement of the child support arrearage balance, the obligor must pay the child support obligation in full as ordered for a minimum of twelve (12) consecutive months immediately preceding the compromise and settlement between the obligor and obligee in order to compromise and settle the remaining balance. If additional child support arrears accrue after a compromise and settlement, such subsequent arrears shall be paid in full and not subject to further compromise and settlement.

(D) A compromise and settlement of a lesser amount than the total principal and interest that is owed shall not be considered against public policy if the compromise and settlement is in the best interest of the child or children.

(E) The program shall operate uniformly across this state and shall take into consideration the needs of the child or children subject to the child support order and the obligor's ability to pay.

(g)(1) Upon application of either party, the court shall decree an increase or decrease of support when there is found to be a significant variance, as defined in the child support guidelines established by subsection (e), between the guidelines and the amount of support currently ordered, unless the variance has resulted from a previously court-ordered deviation from the guidelines and the circumstances that caused the deviation have not changed. Any support order subject to enforcement under Title IV-D may be modified in accordance with § 36-5-103(f).

(2) The necessity to provide for the child's health care needs shall also be a basis for modification of the amount of the order, regardless of whether a modification in the amount of child support is necessary.

(3) The court shall not refuse to consider a modification of a prior order and decree as it relates to future payments of child support because the party is in arrears under that order and decree, unless the arrearage is a result of intentional action by the party.

(4)(A) Notwithstanding subdivision (g)(4)(B) and § 36-5-103(f), for the purposes of this chapter, the birth or adoption of another child for whom an obligor is legally responsible to support and is supporting shall constitute a substantial and material change of circumstances for seeking a review of the existing order to determine if the addition of such child, and any credits applicable for the addition of such child under the department's child support guidelines, would result in a significant variance under such guidelines. If the significant variance is demonstrated by the review, the amount of an existing child support order may be modified by the court.

(B) For purposes of this chapter, the significant variance established by the department of human services pursuant to the child support guidelines shall provide a lower threshold for modification of child support orders for persons whose adjusted gross incomes are within low income categories established by the department's child support guidelines. The significant variance involving low income persons shall be established by rule of the department at no more than seven and one-half percent (7 ½ %) of the difference between the current child support order and the amount

of the proposed child support order.

(5)(A) In Title IV-D child support cases that the department of human services is enforcing, the department shall provide a child support obligor notice ninety (90) days prior to the eighteenth birthday of a child or children for whom the obligor is paying child support, as such birthday is indicated by the department's records.

(B) If the following conditions are met, then the obligor may seek termination of the order of support and may also request that the department, as required by federal law, assist in seeking termination of the order:

(i) The department's records demonstrate that the child for whom an order of support in a Title IV-D child support case has been entered has reached eighteen (18) years of age and has graduated from high school, or that the class of which the child is a member when the child reached eighteen (18) years of age has graduated from high school, the obligor has otherwise provided the department with written documentation of such facts, or the obligor has provided the department with written documentation that a child for whom the obligor is required to pay support has died or has married;

(ii) No other special circumstances exist, including, but not limited to, the circumstances provided for in subsection (k) regarding disabled children, that require the obligation to continue;

(iii) The obligor does not owe arrearages to the obligee parent, any guardian or custodian of the child, the department of human services, any other agency of the state, or any other Title IV-D agency of any state;

(iv) The costs of court have been paid; and

(v) There are no other children for whom the obligor is required to pay child support.

(C)(i) If the conditions of subdivisions (g)(5)(B)(i)-(v) exist in the Title IV-D case, as shown by the department's records, or such conditions exist based upon the written documentation provided by the obligor and verified by the department, then the department shall immediately temporarily suspend the order of support for the child who has reached majority. If the existing court order was the result of a deviation from the child support guidelines, the department shall immediately seek from the court termination of the support order for such child, and shall provide the obligee with notice of the filing of the petition to terminate such order.

(ii) If the existing order was not the result of a deviation from the child support guidelines, the department shall give notice to the obligee, and to the other obligor, of the temporary suspension of the order, based upon verification of the status of the case pursuant to subdivision (g)(5)(B), of its intent to permanently terminate the support order by an administrative order, which the department may issue for such purpose, and of the opportunity for a hearing upon the issue of permanent termination of the order.

(iii) If the obligee contests the temporary suspension of the order of support under the circumstances of subdivisions (g)(5)(B)(i)-(v) and prevails following entry of the court or administrative order, the obligor shall pay the support amounts and any other arrearages or court costs

not paid as a result of the temporary suspension of the order. The administrative order shall be filed with the clerk of the court having jurisdiction of the case.

(D)(i) If the conditions of subdivisions (g)(5)(B)(i)-(iv) are met in the Title IV-D case, but there are other children for whom the obligor is still obligated to support, the department shall immediately conduct a review of the support order and shall seek the support order's adjustment, if appropriate under the child support guidelines for such children. The obligor shall continue to make child support payments, in accordance with the existing order, until the court or department modifies the order pursuant to this subdivision (g)(5)(D).

(ii) If the existing court order was the result of a deviation from the child support guidelines, the department shall seek modification of the support order from the court, and shall provide the obligee and the obligor with notice of the filing of the petition to modify such order.

(iii) If the existing order was not the result of a deviation from the child support guidelines, and the department reviews the order and determines that the order should be modified pursuant to such guidelines, then the department shall notify the parties of the department's intent to modify the support order by an administrative order, which the department may issue for such purpose, and shall notify the parties of the opportunity for a hearing on the issue of modification of the order.

(iv) The support order shall be modified as established by order of the court or the department, as required pursuant to the child support guidelines. If the modified payment amount is lower than the payment amount required prior to the modification, then the obligor shall be given credit for such amount against future payments of support for the remaining children under the order. If the modified payment amount is higher than the payment amount required prior to the modification, then the obligor shall pay the higher ordered amount from the date of entry of the order. The administrative order shall be filed with the clerk of the court having jurisdiction of the case.

(E) The department's review and adjustment process, and the administrative hearing process outlined in this subdivision (g)(5), shall comply with any other due process requirements for notice to the obligor and obligee as may otherwise be required by this chapter.

(h)(1) The court may direct the acquisition or maintenance of health insurance covering each child of the marriage and may order either party to pay all, or each party to pay a pro rata share of, the healthcare costs not paid by insurance proceeds if reasonable and affordable health insurance is available.

(2) In any case in which the court enters an order of support enforced under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), the court shall enter an order providing for health care coverage to be provided for the child or children.

(3) Section 36-5-501(a)(3) shall apply with respect to enrollment of a child in the noncustodial parent's employer-based health care plan.

(i) The court may direct either or both parties to designate the children as beneficiaries under any existing policies insuring the life of either party, and maintenance of existing policies insuring the life of either party, or the purchase and maintenance of life insurance and designation of beneficiaries.

(j) Nothing in this section shall be construed to prevent the affirmation,

ratification and incorporation in a decree of an agreement between the parties as to child support. In any such agreement, the parties must affirmatively acknowledge that no action by the parties shall be effective to reduce child support after the due date of each payment, and that they understand that court approval must be obtained before child support may be reduced, unless such payments are automatically reduced or terminated under the terms of the agreement.

(k)(1) Except as provided in subdivision (k)(2), the court may continue child support beyond a child's minority for the benefit of a child who is handicapped or disabled, as defined by the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), until such child reaches twenty-one (21) years of age.

(2) Provided, that such age limitation shall not apply if such child is severely disabled and living under the care and supervision of a parent, and the court determines that it is in the child's best interest to remain under such care and supervision and that the obligor is financially able to continue to pay child support. In such cases, the court may require the obligor to continue to pay child support for such period as it deems in the best interest of the child; provided, however, that, if the severely disabled child living with a parent was disabled prior to this child attaining eighteen (18) years of age and if the child remains severely disabled at the time of entry of a final decree of divorce or legal separation, then the court may order child support regardless of the age of the child at the time of entry of the decree.

(3) In so doing, the court may use the child support guidelines.

(l)(1) The court may, in its discretion, at any time pending the suit, upon motion and after notice and hearing, make any order that may be proper to compel a spouse to pay any sums necessary to enable the other spouse to prosecute or defend the suit and to provide for the custody and support of the minor children of the parties during the pendency of the suit, and to make other orders as it deems appropriate. In making any order under this subsection (l), the court shall consider the financial needs of each spouse and the children, and the financial ability of each spouse to meet those needs and to prosecute or defend the suit.

(2) In any Title IV-D case, if the court grants relief, whether in whole or in part, to the department of human services or the department's Title IV-D contractor, or to any applicant for Title IV-D child support services, the court shall not tax any court costs against the department, the Title IV-D contractor or any applicant for child support services. The court shall not award attorney fees against the department, the Title IV-D contractor or any applicant for child support services, unless there is a clearly established violation of Rule 11 of the Tennessee Rules of Civil Procedure or for other contemptuous or other sanctionable conduct. This subdivision (l)(2) is not intended to limit the discretion of the courts to tax costs to the individual parties on non-Title IV-D issues, such as custody or visitation.

(m) No provision, finding of fact or conclusion of law in a final decree of divorce or annulment or other declaration of invalidity of a marriage that provides that the husband is not the father of a child born to the wife during the marriage or within three hundred (300) days of the entry of the final decree, or that names another person as the father of such child, shall be given preclusive effect, unless scientific tests to determine parentage are first performed and the results of the test that exclude the husband from parentage

of the child or children, or that establish paternity in another person, are admitted into evidence. The results of such parentage testing shall only be admitted into evidence in accordance with the procedures established in § 24-7-112.

36-5-112. Responsible teen parent pilot project.

(a) Notwithstanding title 71, chapter 3, part 1, or any other law to the contrary, the department shall establish and implement the responsible teen parent pilot project. The pilot project shall be established in at least one (1) county within each of the three (3) grand divisions. Acting in consultation with the department of education and department of labor and workforce development, the council of juvenile and family court judges, the district attorneys general conference, the department of human services shall develop policies and procedures whereby child support obligations of project participants may be adjusted or deferred; provided, that the participants engage in one (1) or more of the following activities:

- (1) Attending school and making satisfactory progress toward high school graduation;
- (2) Attending preparatory classes and making satisfactory progress toward receipt of a general equivalency diploma;
- (3) Participating in approved job training programs and making satisfactory progress toward job placement; or
- (4) Participating in approved parenting skills training courses and making satisfactory progress toward mastery of the subject matter of such courses.

(b) Participation in the responsible teen parent pilot program shall be restricted to persons who:

- (1) Are under twenty-one (21) years of age;
- (2) Are noncustodial parents of children who are receiving, or who have recently received, aid to families with dependent children benefits;
- (3) Are unable to provide adequate support for such children due to unemployment or underemployment;
- (4) Pay a minimum, specified amount of child support; and
- (5) Visit their children at least once each week unless such visitation is restricted by court order.

(c) In accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the department of human services, acting in consultation with the department of education, department of labor and workforce development, the council of juvenile and family court judges, and the district attorneys general conference, shall promulgate such rules as may be necessary to implement the responsible teen parent pilot project in an efficient and effective manner. Such rules shall include, but shall not be limited to, policies and procedures for:

- (1) Identifying teen parents who would be eligible to participate in these programs in the pilot counties;
- (2) Pursuing the establishment of paternity in all cases involving teen parenthood within the pilot counties;
- (3) Pursuing the establishment and enforcement of support orders in such cases;
- (4) Selecting project participants;

434

(5) Monitoring project participants;

(6) Determining adjustments or deferral of child support obligations for project participants;

(7) Selecting approved job training programs; and

(8) Determining the minimum amount of child support that must be paid by project participants throughout their enrollment in the pilot project.

(d) The department of human services shall gather and compile data to evaluate the efficiency and effectiveness of the pilot project in promoting responsible parenting and in encouraging near- and long-term fulfillment of child support obligations. On or before December 31 each year, the department of human services, acting in consultation with the department of education, department of labor and workforce development, the council of juvenile and family court judges, and the district attorneys general conference, shall report to the judiciary committee of the senate and the committee of the house of representatives having oversight over children and families concerning implementation of the pilot project and shall include any recommendations pertaining thereto.

(e) Within each of the pilot counties, the department of human services and the juvenile court or the district attorney general shall jointly undertake a public awareness campaign to periodically inform and remind teens that:

(1) Teen parents have a legal obligation to financially support their children, and that such obligation continues for eighteen (18) years following the birth of a child;

(2) The legal obligation of support exists regardless of a teen parent's gender or marital status; and

(3) The legal obligation of support will be enforced and the means with which the department may enforce the obligation.

(f) This section shall not be construed or applied in any manner that jeopardizes or reduces the availability of federal funding resources for state administered public assistance programs.

36-5-114. Federally required state collection and disbursement unit for child and spousal support.

(a)(1) This section is intended to outline a flexible waiver application procedure for the federally required centralized collection and disbursement of child and spousal support established pursuant to 42 U.S.C. § 654b. Wherever the terminology "collection and disbursement" is used in this section, or in other sections of law using that terminology, it is the legislative intent that the use of such term in the conjunctive shall not be construed to prevent the department of human services from seeking waivers and the state from implementing any procedures, permitted by federal law, regulations, or interpretations of such law or regulations or such waivers, that may allow for alternate methods or processes for either collection or disbursement of child and spousal support by the clerks of the courts of this state.

(2)(A) If the federal law, or regulations or the interpretation of such law or regulations, are repealed or modified so that centralized collection and disbursement are no longer mandated by federal law, and such repeal or modification occurs before the implementation of the centralized collection system, either directly by department itself or before the execution of a contract by the department with a contractor for the operation of such

system, the provisions of state law addressing such a centralized system for the collection and disbursement of child and spousal support shall be null and void.

(B) Should the federal requirement of a centralized system be repealed or modified after implementation by the department of the federally required centralized collection and disbursement system, either directly by the department or by the department through a contractor, the provisions of law relative to the federally required centralized collection and disbursement system shall remain in effect, but the commissioner of human services shall, at the request of and in conjunction with the clerks of the court, develop a plan for transition of the collection and disbursement functions to the clerks of the court, which shall include proposed legislation that may be necessary to return the collection and disbursement process to the clerks of court. The plan shall be submitted to chairs of the judiciary committee of the house of representatives and the judiciary committee of the senate prior to the beginning of the next session of the general assembly after the repeal or modification of the federal requirements, but in no event later than ninety (90) days after the repeal or modification of the federal requirements.

(3) Nothing herein shall impair the validity of a contract that has been executed by the state of Tennessee or the department with any person or entity for the operation of the federally required centralized collection and disbursement system before the repeal or modification of the federal centralized collection and disbursement requirement.

(b)(1) If a waiver is available under federal law or regulations that would enable the clerks of the court to continue to collect or disburse child and spousal support, the commissioner shall, at the request of the state court clerks conference, consult with the clerks of the court to determine the feasibility of implementing the provisions of such a waiver, and shall make application to the United States department of health and human services for such a waiver; provided, that if the department has contracted for the operation of the central collection and disbursement system at the time federal law and regulations, or the interpretation of such, have changed, then this subdivision (b)(1) shall be subject to the contract terms.

(2) In the event the waiver is granted that permits the clerks of court to perform services in the central collection and disbursement system, the clerks of court may enter into a contract, as permitted by state and federal law, with a third party to perform any of the functions required by federal law or required under such a waiver. If such a contract is appropriate, the president of the state court clerks conference, upon authorization of the board of directors of the state court clerks conference, shall have authority to bind the members of the conference to the terms of the contract. The contract may provide for any contractor to retain or distribute all or part of the clerks' fees authorized by § 8-21-403, if permitted by federal regulations. Under any plan, the collection and disbursement of child and spousal support shall be conducted in such a manner as will not adversely affect either compliance with federal regulations or federal funding for the Title IV-A block grant program and the Title IV-D child support program.

36-5-406. Promulgation of forms.

The department of human services, in consultation with the Tennessee

judicial conference, has the authority by regulation to promulgate forms, which must be available for use pursuant to this part. Such forms must be promulgated pursuant to the rulemaking provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

36-5-501. Income withholding.

(a)(1) For any order of child support issued, modified, or enforced on or after July 1, 1994, the court shall order an immediate assignment of the obligor's income, including, but not necessarily limited to: wages, salaries, commissions, bonuses, workers' compensation, disability, payments pursuant to a pension or retirement program, profit sharing, interest, annuities, and other income due or to become due to the obligor. The order of assignment shall issue regardless of whether support payments are in arrears on the effective date of the order. The court's order, shall include an amount sufficient to satisfy an accumulated arrearage, if any, within a reasonable time. The order may also include an amount to pay any medical expenses that the obligor owing the support is obligated or ordered to pay. Withholding shall not exceed fifty percent (50%) of the employee's income after FICA, withholding taxes, and a health insurance premium that covers the child, are deducted. The order shall also include an amount necessary to cover the fee due the clerk of the court or the department, if appropriate. In the event the court does not order an immediate assignment pursuant to subdivision (a)(2), every order shall be enforceable by income assignment as provided in this chapter.

(2)(A) Income assignment under this subsection (a) shall not be required:

(i) If, in cases involving the modification of support orders, upon proof by one party, there is a written finding of fact in the order of the court that there is good cause not to require immediate income assignment and the proof shows that the obligor has made timely payment of previously ordered support. "Good cause" shall only be established upon proof that the immediate income assignment would not be in the best interests of the child. The court shall, in its order, state specifically why such assignment will not be in the child's best interests; or

(ii) If there is a written agreement by both parties that provides for alternative arrangements. Such agreement must be reviewed by the court and entered in the record.

(B) If the case is being enforced under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), and is subject to an assignment of support due to receipt of public assistance, the department of human services or its contractor must be notified of the request for exemption under subdivisions (a)(2)(A)(i) and (ii) and may present evidence for purposes of subdivision (a)(2)(A)(i), or must agree in order to permit exemption from income withholding as otherwise permitted pursuant to subdivision (a)(2)(A)(ii).

(3)(A) Unless a court or administrative order stipulates that alternative health care coverage to employer-based coverage is to be provided for a child subject to a Title IV-D child support order, in any case in which a noncustodial parent is required by a court or administrative order to provide health care coverage for such a child, and the employer of the noncustodial parent is known to the department, the department shall use

any federally-required medical support notices to provide notice to the employer of the requirement for employer-based health care coverage for such child through the child's parent who has been ordered to provide health care coverage for such child. The department shall send the federal medical support notice to any employer of a noncustodial parent subject to such an order within two (2) business days of the entry of such employee who is an obligor in a Title IV-D case into the directory of new hires under part 11 of this chapter.

(B) Within twenty (20) business days after the date of the medical support notice, the employer of a noncustodial parent subject to an order for health care coverage for the child shall transfer the notice to the appropriate plan providing such health care coverage for which the child is eligible. The employer shall withhold from the noncustodial parent's compensation any employee contributions necessary for coverage of the child and shall send any amount withheld directly to the health care plan to provide such health care coverage for the child. If the employee contests the withholding of such employee contributions, the employer shall initiate withholding until the contest is resolved. The employee/obligor shall have the right to contest the withholding order issued pursuant to subdivision (a)(3) based upon a mistake of fact according to the provisions for appeal provided pursuant to part 10 of this chapter.

(C)(i) An employer shall notify the department promptly whenever the noncustodial parent's employment is terminated.

(ii) The department shall promptly notify the employer when there is no longer a current order for medical support in effect for which the department is responsible.

(D) The liability of the noncustodial parent for employee contributions to the health care plan necessary to enroll the child in the plan shall be subject to all available enforcement mechanisms under this title or any other provision of law.

(E) Upon receipt of the notice required by this subdivision (a)(3) that appears regular on its face and that has been appropriately completed, the notice is deemed a qualified medical child support order under 29 U.S.C. § 1169(a)(5)(C)(i). The health insurance plan administrator of a participant under a group health plan who is the noncustodial parent of the child for whom the notice was received pursuant to this subdivision (a)(3), shall, within forty (40) business days:

(i) Notify the state Title IV-D agency of any state or territory that issued the notice with respect to whether coverage is available for such child under the terms of the plan, and, if so, whether such child is covered under the plan and either the effective date of the coverage or, if necessary, any steps to be taken by the custodial parent, or official of a state or political subdivision thereof substituted for the name of the child pursuant to 29 U.S.C. § 1169(a)(3)(A), to effectuate coverage. The department or its contractors, in consultation with the custodial parent, must promptly select from available plan options when the plan administrator reports that there is more than one (1) option available under the employer's plan; provided, however, if such response is not made to the plan administrator within twenty (20) business days, and if the plan has a default option for coverage, the plan administrator shall enroll the child in that default option. If there is no default option, the

plan administrator may call the office of the department or contractor that sent the notice and seek direction as to the child's enrollment in the available plans;

(ii) Provide the custodial parent or such substituted official a description of the coverage available and any forms or documents necessary to effectuate such coverage and permit the custodial parent or substituted official to file claims;

(iii) Send the explanation of benefit statements to the custodial parent, substituted official and the employee;

(iv) Send the reimbursement to the custodial parent, legal guardian or substituted official for expenses paid by the custodial parent, legal guardian or substituted official for which the child may be eligible under the plan;

(v) Nothing in subdivision (a)(3)(E) shall be construed as requiring a group health plan, upon receipt of a medical support notice, to provide benefits under the plan, or eligibility for benefits, under the terms of the plan in addition to, or different from, those provided immediately before receipt of such notice, except as may otherwise be required by title 56, chapter 7, part 23.

(b)(1)(A) In all cases in which the court has ordered immediate income assignment, the clerk of the court, or the department of human services or its contractor in Title IV-D cases, shall immediately issue an income assignment to an employer once the employer of an obligor has been identified.

(B) In all cases in which an immediate assignment of income has not been previously ordered, or in which an obligor who is ordered to pay child support in which an immediate income assignment was not required pursuant to subdivision (a)(2), and when the obligor becomes in arrears as defined in this subdivision (b)(1) as reflected in the records of the clerk of court, if the support is paid through the clerk's office or in the records of the department of human services, then the clerk of the court, or the department or its contractor in Title IV-D child support cases shall, without the necessity of an affidavit of the obligee, issue an order of income assignment to the employer of the obligor, if known, or at such time as the employer's name and whereabouts are made known to the clerk or the department or its contractor. No court order expressly authorizing an income assignment shall be required under this subdivision (b)(1)(B).

(C) The order of assignment issued by the department or its contractor pursuant to subdivisions (b)(1)(A) and (B) shall include an amount sufficient to satisfy an accumulated arrearage within a reasonable time without further order of the court. The order shall also include an amount to pay any medical expenses that the obligor owing the support is obligated or ordered to pay. Withholding shall not exceed fifty percent (50%) of the employee's income after FICA, withholding taxes, and a health insurance premium that covers the child, are deducted. The order shall also include an amount necessary to cover the fee due the clerk of the court, if appropriate.

(D) In all other cases in which the child support payments were ordered to be paid directly to a parent or guardian or custodian of the child or children, and the child support payments are in arrears as defined in this subdivision (b)(1), the parent, guardian or custodian may, by affidavit filed

with the clerk, or, the department or its contractor in Title IV-D child support cases, request that an order of income assignment be sent by the clerk of the court, or by the department, to the employer, if known, or at such time as the employer's name and whereabouts are made known to the clerk, the department or its contractor. No court order expressly authorizing an income assignment shall be required under this subdivision (b)(1).

(E) The order of assignment issued by the clerk or the department or its contractor pursuant to subdivision (b)(1)(D) shall include an amount sufficient to satisfy an accumulated arrearage within a reasonable time. The order may also include an amount to pay any medical expenses that the obligor owing the support is obligated or ordered to pay. Withholding shall not exceed fifty percent (50%) of the employee's income after FICA, withholding taxes, and a health insurance premium that covers the child, are deducted. The order shall also include an amount necessary to cover the fee due the clerk of the court, if appropriate.

(F) An income assignment pursuant to this subsection (b) shall be mandatory even if subsequent to the issuance of the order of assignment the obligor pays the amount of arrearage in part or in full as long as current support or arrearages are still owed.

(G) For purposes of this part, "arrearage" means any occasion on which the full amount of ordered support ordered for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the child is living to the extent the spousal support would be included for the purposes of 42 U.S.C. § 654a(e)(4), is not paid by the due date for arrearage as defined in § 36-5-101(f)(1) unless an income assignment is in effect and the payor of income is paying pursuant to subsection (g).

(H) Clerks of court are authorized to issue an order of income assignment to the employer of the obligor and to institute the process to assign income when the obligor fails to pay court costs, but shall not have priority over the income assignment for child or spousal support.

(2) When an order of income assignment has been issued pursuant to subdivision (b)(1)(B) or (b)(1)(D), the clerk, or the department in Title IV-D cases, shall send a notice to the obligor within two (2) business days of the issuance of the order of income assignment being sent to the obligor's employer. If the assignment is made pursuant to subdivisions (b)(1)(B) or (b)(1)(D), the notice must be sent to the address of the obligor, if known, or to the obligor at the address of the employer of the obligor if the obligor's address is unknown.

(3) In addition to any other required or pertinent information, all notices of assignment sent to the obligor who resides in this state pursuant to this section shall include:

(A) The amount of money owed by the obligor, including both current support and arrearage;

(B) The amount of income withholding, except where otherwise ordered by the court, that shall be applied for current support, the amount that shall be applied for arrearages and the amount to be applied for alimony. The amount withheld shall be an amount reasonably sufficient to satisfy an accumulated arrearage within a reasonable time;

(C) Notice that the obligor has the right to a hearing before the court, or, in Title IV-D cases, an administrative review by the department of human services. The administrative hearing shall be conducted pursuant to part

10 of this chapter; and

(D) Notice that the obligor must request the hearing by notifying the clerk, or the department in Title IV-D cases, within fifteen (15) days of the date of the notice, or the date of personal service, if used.

(4) Orders of income assignment issued by the department of human services or its contractors shall be filed with the court.

(5)(A) In all Title IV-D child or spousal support cases in which payment of such support is to be made by income assignment, and in all cases where payments made by income assignment based upon support orders entered on or after January 1, 1994, that are not Title IV-D support cases but must be made to the central collection and disbursement unit as provided by § 36-5-116, the court, the clerk of court, or the department or its contractors shall only order that the support payments be made by income assignment to the central collection and disbursement unit pursuant to § 36-5-116. No agreement by the parties in a parenting plan, either temporary or permanent, entered pursuant to chapter 6, part 4 of this title, or any other agreement of the parties or order of the court, except as may otherwise be allowed by subdivision (a)(2)(B), shall alter the requirements for payment by income assignment to the central collection and disbursement unit as required by § 36-5-116, and any provision of any parenting plan, agreement or court order providing for any other payment procedure contrary to the requirements of § 36-5-116, whether or not approved by the court, except as may otherwise be allowed by subdivision (a)(2)(B), shall be void and of no effect. No credit shall be given by the court, the court clerk or the department of human services for child or spousal support payments required by the support order that are made in contravention of such requirements; provided, however, the department may make any necessary adjustments to the balances owed to account for changes in the Title IV-D or central collection and disbursement status of the support case.

(B) The payment of child support through the centralized collection and disbursement unit established pursuant to § 36-5-116 does not establish the case as a Title IV-D case unless the case otherwise meets the criteria of § 71-3-124 for a case, in which the department of human services will provide child support services to an assignor of support rights or to any person who has otherwise applied for such services.

(6)(A) If the obligor is self-employed, or if the obligor is a partner, member, owner or officer of a partnership, limited liability company, corporation or other association or business entity from which the obligor receives compensation in the form of wages, salary, commissions, bonuses or otherwise, then the court may order the obligor, or the business entity of which the obligor is a partner, member, owner or officer, if applicable, to establish a bank account for the sole purpose of complying with the order issued pursuant to subsection (a). The order issued pursuant to subsection (a) shall specify the amount of the obligor's compensation that is to be deposited into the account and the frequency by which the deposits are to be made, whether weekly, biweekly or monthly. Within ten (10) days of the issuance of the order pursuant to subsection (a), the obligor or business entity shall provide the department with written authorization for the department's central collection and disbursement unit to receive from the account, by automatic bank withdrawal, the amount ordered by the court

to be deposited into the account. Failure to either deposit the required amount into the account or to authorize automatic withdrawal of the required amount by the department's central collection and disbursement unit is failure to comply with a child support order, which shall be punishable as civil contempt.

(B) As used in subdivision (b)(6)(A), "self-employed" means earning one's livelihood directly from one's own business, trade or profession rather than as a specified salary or wages from an employer.

(c)(1) In the event the obligor requests a hearing in cases not being enforced pursuant to Title IV-D regarding the withholding as provided in subdivisions (b)(1)(B) within fifteen (15) days of the date of the notice, or the date of personal service, if used, the clerk shall promptly docket the case with the magistrate or court as provided by part 4 of this chapter, shall give notice to all parties, and shall take any other action as is necessary to ensure that the time limits provided in subsection (d) are met.

(2) If the withholding was issued by the department or its contractor in Title IV-D cases and the obligor requests an administrative hearing as permitted by part 10 of this chapter, the department shall promptly schedule the case for a hearing, shall give notice to all parties, and shall take any other action as is necessary to ensure that the time limits provided in subsection (d) are met.

(d) In all cases in which the obligor requests a hearing or administrative review, the magistrate or court, or the department, shall conduct a hearing and make a determination, and the clerk or department shall notify the obligor and the employer of the decision within forty-five (45) days of the date of the order provided in subdivision (b)(1).

(e) The obligor may contest the results of the department's administrative review by requesting a judicial review as provided in part 10 of this chapter.

(f) The amount to be withheld under the income assignment withheld for support may not be in excess of fifty percent (50%) of the income due after FICA, withholding taxes, and a health insurance premium that covers the child are deducted.

(g)(1) The assignment or any subsequent modification is binding upon any employer, person or corporation, including successive employers, fourteen (14) days after mailing or other transmission or personal service of the order from the clerk of the court, or from the department by administrative order of income assignment, pursuant to this section. The employer, person or corporation has a fiduciary duty to send amounts withheld for payment of a child support obligation to the clerk or the department's central collection and disbursement unit as directed in the income assignment order, or, if based upon a direct withholding from another state pursuant to the Uniform Interstate Family Support Act, compiled in parts 20-29 of this chapter, to the other state as directed by that order of assignment. The amount shall be sent by the employer, person or corporation within (7) days of the date the person obligated to pay support is paid, the date the person is to be paid or the date the amount due such person is to be credited. The order is binding until further notice.

(2) The employer, person, corporation or institution shall provide notice to the clerk, the department, or the entity in the other state to which the withheld income was to be sent of termination of employment or income payments to the employee. Any employer, person, corporation or institution

that files for bankruptcy or ceases to operate as a business shall provide notice to the clerk or the department of the bankruptcy or cessation of business upon filing bankruptcy or at least ten (10) days prior to ceasing to operate as a business. Any notice provided pursuant to this subsection (g) shall include the names of all the affected employees subject to an income assignment, the last known address of each of those employees, and the name and address of the new employer or source of income of each of those employees, if known.

(3) Failure of any employer, person, corporation or institution to pay income withheld to the clerk or clerks, to the department, its contractor, or other entity, or Title IV-D child support agency in any other state that issued the order, as may be directed by the income assignment order, is a breach of a fiduciary duty to the obligor. Any action alleging breach of fiduciary duties by an employer, person, corporation or institution pursuant to this section shall be brought within one (1) year from the date of the breach or violation; provided, that in the event the alleged breach or violation is not discovered or reasonably should have been discovered within the one-year period, the period of limitation shall be one (1) year from the date the alleged breach or violation was discovered or reasonably should have been discovered. In no event shall an action be brought more than three (3) years after the date on which the breach or violation occurred, except where there is fraudulent concealment on the part of the defendant, in which case the action shall be commenced within one (1) year after the alleged breach or violation is, or should have been, discovered.

(h) For any order of alimony in solido, in futuro or rehabilitative issued, modified or enforced on or after April 24, 2002, the court may order immediate assignment of the obligor's income, including, but not necessarily limited to: wages, salary, commissions, bonuses, workers' compensation, disability, payments pursuant to a pension or retirement program, profit sharing, interest, annuities and other income due or to become due to the obligor. The order of assignment shall issue regardless of whether support payments are in arrears on the effective date of the order. The court's order may include an amount sufficient to satisfy an accumulative arrearage, if any, within a reasonable time. Withholding shall not exceed fifty percent (50%) of the employee's income after FICA, withholding taxes, and a health insurance premium that covers the child, if any, are deducted. The order shall also include an amount necessary to cover the fee due the clerk of the court, if appropriate.

(i) It is unlawful for an employer to use the assignment as a basis for discharge or any disciplinary action against the employee. Compliance by an employer, other person, institution or corporation with the order shall operate as a discharge of the liability of such employer, other person, institution or corporation to the affected individual as to that portion of the income so affected. An employer shall be subject to a fine for a Class C misdemeanor if the income assignment is used as a basis to refuse to employ a person or to discharge the obligor/employee or for any disciplinary action against the obligor/employee or if the employer fails to withhold from the obligor's income or to pay such amounts to the clerk or to the department as may be directed by the withholding order.

(j)(1) An assignment under this section shall take priority over any other assignment or garnishment of wages, as described in title 26, chapter 2, or salary, commissions or other income, except those deductions made manda-

tory by law or hereafter made mandatory.

(2)(A) If the employer, person, corporation, or institution receives more than one (1) order of income assignment against an individual, the employer, person, corporation, or institution must:

(i) Comply by giving first priority to all orders for amounts due for current support credited in the following order: child support, medical support, and spousal support;

(ii) Comply by giving second priority to all orders for amounts due for arrearages credited in the following order: child support, medical support, and spousal support; and

(iii) Honor all withholdings to the extent the total amount withheld from wages does not exceed fifty percent (50%) of the employee's wages after FICA, withholding taxes, and a health insurance premium that covers the child are deducted.

(B) Any employer, person or entity receiving an order for income withholding from another state or territory shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

(i) The employer's fee for processing an income withholding order;

(ii) The maximum amount permitted to be withheld from the obligor's income;

(iii) The time periods within which the employer must implement the income withholding order and forward the child support payment;

(iv) The priorities for withholding and allocating income withheld for multiple child support obligees; and

(v) Any withholding terms and conditions not specified in the order.

(C) The "principal place of employment" for an obligor who is employed in this state and for whom an income withholding order has been received in this state from another state or territory shall be deemed to be this state, and the provisions set forth in the requirements of this section regarding income withholding shall apply to the determinations made in subdivisions (j)(2)(B)(i)-(v).

(3)(A) If any employer, person, or other entity receives any income assignment for current support against an individual that would cause the deduction from any two (2) or more assignments for current support to exceed fifty percent (50%) of the individual's income after FICA, withholding taxes, and a health insurance premium that covers the child are deducted, then the allocation of all current support ordered withheld by all income assignments they receive against that individual shall be determined by the employer, person, or entity as follows:

(i) The employer, person, or other entity shall determine the total dollar amount of the assignments for current support it has received involving the obligor to whom it owes any wages, salaries, commissions, bonuses, workers' compensation, disability, payments pursuant to a pension or retirement program, profit sharing, interest, annuities, and other income due or to become due to the obligor;

(ii) Each individual assignment shall then be calculated as a percentage of the total obtained pursuant to subdivision (j)(3)(A)(i);

(iii) The employer, person, or entity shall then allocate the available income of the obligor, subject to the limits described in this subsection (j), based on the percentage computation pursuant to subdivision

(j)(3)(A)(ii) and shall, as directed by the order of income assignment, pay the amounts withheld from the obligor's income, to the clerk or clerks, or to the department, its contractor, or other entity or Title IV-D child support agency in any other state that issued such order.

(B) In the event all current support obligations are met from the assignments and support arrearages exist in more than one (1) case and there is not sufficient income to pay all ordered support arrearages, then the support arrearages shall be allocated on the same basis as set forth in subdivision (j)(3)(A).

(C) The obligor shall be responsible for seeking any modifications to the existing orders for support.

(4) An employer, person, corporation or institution may make one (1) payment to the clerk of the court, the department, its contractor or other entity in another state so long as the employer separately identifies the portion of the single payment attributable to each individual obligor parent, and, if amounts are included that represent withholdings for more than one (1) pay period, so long as the amounts representing each pay period are separately identified.

(k)(1) "Employer, person, corporation or institution," as used in this section, includes the federal government, the state and any political subdivision thereof and any other business entity that has in its control funds due to be paid to a person who is obligated to pay child support.

(2) "Spousal support" for purposes of enforcement of child support by the department of human services under the Title IV-D child support program means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children who are receiving child support services from the department and for whom the individual also owes support. Income assignments pursuant to this part that are enforced as part of the Title IV-D services provided by the department shall apply to spousal support obligations as defined in this subdivision (k)(2).

(l) Any employer, person, corporation or institution that is ordered to pay an income assignment on behalf of an individual may charge the obligor parent an amount of up to five percent (5%) not to exceed five dollars (\$5.00) per month for such service.

(m) The notices and orders required to be issued pursuant to this section shall be transmitted to any party or person by any method chosen by the court or the department, including, but not limited to: certified mail, return receipt requested, regular mail, electronic mail, facsimile transmission, or by personal service, and may be generated by computer or on paper. The notices and orders required by this section need not be entered in the minutes of the court. If a notice or order is returned or otherwise not deliverable, then service shall be had by any alternative method chosen by the court or the department, as listed in this subsection (m). Before taking action against an employer or other payor for failure to comply with this part, the court or department shall ensure that service of the notice or order was made by certified mail or by personal service. Electronically reproduced signatures shall be effective to issue any orders or notices pursuant to this section.

(n) There shall be no litigation tax imposed on proceedings pursuant to this part.

(o)(1) The department of human services shall have authority to establish mandatory rules, forms and any necessary standards and procedures to

implement income assignments, which shall be used by all the courts and by the department pursuant to this part. The department of human services may implement the use of such forms at any time after July 1, 1997, by emergency rule following approval by the attorney general and reporter. Permanent rules implementing the forms shall be promulgated pursuant to the rulemaking provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(2) Prior to the filing of a notice of rulemaking for permanent rules pursuant to this subsection (o), the rules shall be sent by the department for review by an advisory group composed of two (2) representatives of the state court clerks' conference appointed by the president of the state court clerks' conference; two (2) representatives of the judges of courts that have child support responsibilities, one (1) of whom will be appointed by the chief justice of the supreme court and one (1) of whom will be appointed by the president of the council of juvenile and family court judges; a representative of the administrative office of the courts; and two (2) representatives of the department of human services designated by the commissioner. Nothing contained herein shall be construed to prevent the department from filing any notice of rulemaking prior to or at the time the proposed permanent rules are sent to the advisory group where the department determines that immediate filing of the notice without prior review by the advisory group is necessary to meet any requirements relative to the potential expiration of emergency rules or to comply with any federal statutory or regulatory requirements or any federal policy directives.

(p)(1) If any employer, person, corporation or institution fails or refuses to comply with the requirements of this section, then that employer, person, corporation or institution is liable for any amounts up to the accumulated amount that should have been withheld. In addition, that employer, person, corporation or institution may be subject to a civil penalty to be assessed and distributed pursuant to the requirements of this subsection (p).

(2) Upon the first failure to comply with an order of income assignment, that employer, person, corporation or institution may be subject to a civil penalty of one hundred dollars (\$100) per obligor for whom an order of income assignment was received, two hundred dollars (\$200) per obligor for the second failure to comply and five hundred dollars (\$500) per obligor for each occurrence thereafter.

(3) The civil penalty, when assessed and collected by the department of human services, shall be prorated among the children for whom the income assignment order was issued and with which the employer, person, corporation or institution failed to comply. If there are multiple income assignments for an obligor, the prorated amounts of the civil penalty shall be distributed to the children in the proportion that each order for which the income assignment was issued is to the total amount of all income assignments with which the employer, person, corporation or institution failed to comply.

(4) The civil penalty amount received by the children shall not reduce in any manner the amount of support owed by the obligor parent, but shall be received in addition to all ordered child support.

(q)(1) Penalties authorized by this section shall be assessed by the commissioner of human services after written notice to the employer, person, corporation or institution. The notice shall provide fifteen (15) days from the

mailing date of the notice for the employer, person, corporation or institution to file a written request to the department for appeal of the civil penalty. If an appeal is timely filed with the department, the department shall set an administrative hearing on the issue of the assessment pursuant to the Uniform Administrative Procedures Act, relative to contested case hearings. Failure to timely appeal the assessment of the civil penalty shall be final and conclusive of the correctness of the assessment.

(2) Any amount found owing shall be due and payable not later than fifteen (15) days after the mailing date of the determination. Failure to pay an assessment shall result in a lien against the real or personal property of the employer, person, corporation or institution in favor of the department. If an assessment is not paid when it becomes final, the department may collect the amount of the civil penalty by any available administrative enforcement procedures or by court action. The nonprevailing party shall be liable for all court costs and litigation taxes of the proceedings and shall be liable to the department for the cost of any private, contract or government attorney representing the state and for the time of any of its Title IV-D or contractor staff utilized in litigating the assessment.

(3) Any appeal of the action of the commissioner pursuant to this section shall be made in conformity with § 36-5-1003.

36-6-303. Visitation rights of stepparents.

(a) In extraordinary cases, the court is authorized to order stepparent visitation under the following circumstances:

(1) If a stepparent or former stepparent presents a petition, or a motion in a pending case to which the stepparent is a party, for visitation with the stepparent's stepchild or former stepchild to the circuit court, chancery court, general sessions court with domestic relations jurisdiction, or juvenile court of the county in which the stepchild or former stepchild resides, the court shall set the matter for hearing if such visitation is opposed by a parent or custodian or if the petitioner's visitation has been severely reduced by the parent or custodian and any of the following circumstances exist:

(A) The parent of the child to whom the petitioner was married is deceased;

(B) The child's parent and the petitioner are divorced or are in the process of seeking a divorce;

(C) The whereabouts of the child's parent to whom the petitioner is married are unknown;

(D) The court of another state has ordered the visitation between the child and the petitioner;

(E) The child and petitioner maintained a significant relationship for a substantial period of time preceding severance or severe reduction of contact and the contact was severed or severely reduced by the parent or custodian for reasons other than abuse or presence of danger of substantial mental, emotional, or physical harm to the child, and severance or severe reduction of this contact is likely to cause substantial mental, emotional, or physical harm to the child; or

(F) There has been an unreasonable denial of visitation by a parent or custodian and the denial has caused the child severe mental, emotional, or physical harm.

(2) For purposes of this section, “petitioner” includes a movant, unless the context otherwise requires.

(b)(1) In considering a petition or motion for stepparent visitation, the court shall first determine the presence of a danger of substantial mental, emotional, or physical harm to the child if the requested visitation is not permitted by the court. Such finding of substantial harm may be based upon cessation or severe reduction of the contact between a minor child and the petitioner only if the court determines by a preponderance of the evidence that the child had a significant existing relationship with the petitioner, and that loss of or severe reduction in contact is likely to occasion severe mental, emotional, or physical harm to the child or presents the danger of other direct and substantial harm to the child.

(2) A petitioner is not required to present the testimony of an expert witness in order to establish a significant existing relationship with a child or that the loss or severe reduction of the contact is likely to cause substantial mental, emotional, or physical harm to the child.

(c) There is a rebuttable presumption that a fit parent’s or custodian’s actions and decisions regarding the petitioner’s requested visitation are not harmful to the child’s mental, emotional, or physical health. The burden is on the petitioner to prove that a parent’s or custodian’s actions and decisions regarding visitation will cause substantial harm to the child’s mental, emotional, or physical health.

(d) Upon an initial finding of the presence of a danger of substantial mental, emotional, or physical harm to the child, the court shall then determine whether the petitioner’s visitation would be in the best interest of the child based upon the factors in subsection (e). The best interest finding will only occur in extraordinary cases. Upon a determination that visitation would be in the best interest of the child, reasonable visitation may be ordered.

(e) In determining the best interests of the child under this section, the court shall consider all pertinent matters, including, but not limited to, the following:

(1) The length and quality of the prior relationship between the child and the petitioner and the role performed by the petitioner;

(2) The existing emotional ties of the child to the petitioner;

(3) The preference of the child if the child is determined to be of sufficient maturity to express a preference;

(4) The effect of hostility between the petitioner and the parent or custodian of the child manifested before the child, and the willingness of the petitioner, except in case of abuse, to encourage a close relationship between the child and the parent or custodian of the child;

(5) The good faith of the petitioner in filing the petition or motion;

(6) If one (1) parent or custodian is deceased or missing, the fact that the petitioner requesting visitation is or was the spouse of the deceased or missing parent or custodian;

(7) Any unreasonable deprivation of the petitioner’s opportunity to visit with the child by the child’s parent or custodian;

(8) Whether the petitioner is seeking to maintain a significant existing relationship with the child;

(9) Whether awarding the petitioner visitation would interfere with the parent-child relationship or the custodian-child relationship;

(10) The child’s interactions and interrelationships with siblings, half-

448

siblings, other relatives, and step-relatives;

(11) Any court finding that the child's parent or custodian is unfit; and

(12) Any other factors the court deems relevant.

36-6-402. Part definitions.

As used in this part, unless the context requires otherwise:

(1) "Dispute resolution" means the mediation process or alternative dispute resolution process in accordance with Tennessee Supreme Court Rule 31 unless the parties agree otherwise. For the purposes of this part, such process may include: mediation, the neutral party to be chosen by the parties or the court; arbitration, the neutral party to be chosen by the parties or the court; or a mandatory settlement conference presided over by the court or a special master;

(2) "Parenting responsibilities" means those aspects of the parent-child relationship in which the parent makes decisions and performs duties necessary for the care and growth of the child. "Parenting responsibilities," the establishment of which is the objective of a permanent parenting plan, include:

(A) Providing for the child's emotional care and stability, including maintaining a loving, stable, consistent, and nurturing relationship with the child and supervising the child to encourage and protect emotional, intellectual, moral, and spiritual development;

(B) Providing for the child's physical care, including attending to the daily needs of the child, such as feeding, clothing, physical care, and grooming, supervision, health care, and day care, and engaging in other activities that are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;

(C) Providing encouragement and protection of the child's intellectual and moral development, including attending to adequate education for the child, including remedial or other education essential to the best interests of the child;

(D) Assisting the child in developing and maintaining appropriate interpersonal relationships;

(E) Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and the family's social and economic circumstances; and

(F) Providing any financial security and support of the child in addition to child support obligations;

(3) "Permanent parenting plan" means a written plan for the parenting and best interests of the child, including the allocation of parenting responsibilities and the establishment of a residential schedule, as well as an award of child support consistent with chapter 5 of this title;

(4) "Primary residential parent" means the parent with whom the child resides more than fifty percent (50%) of the time;

(5) "Residential schedule" is the schedule of when the child is in each parent's physical care, and the residential schedule must designate a primary residential parent when the child is scheduled to reside with one (1) parent more than fifty percent (50%) of the time; in addition, the residential schedule must designate in which parent's home each minor child shall

reside on given days of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions, consistent with the criteria of this part; provided, that nothing contained herein modifies any provision of § 36-6-108; and

(6) “Temporary parenting plan” means a plan for the temporary parenting and the best interests of the child, including the establishment of a temporary residential schedule, and the establishment of temporary financial support designed to maintain the financial status quo to the extent possible, consistent with chapter 5 of this title, and the guidelines thereunder.

36-6-410. Designation of custody for the purpose of other state and federal statutes.

(a) Solely for the purpose of all other state and federal statutes and any applicable policies of insurance that require a designation or determination of custody, a parenting plan must designate the parent with whom the child is scheduled to reside a majority of the time as the primary residential parent of the child; provided, that this designation shall not affect either parent’s rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside a majority of the time is deemed to be the primary residential parent for the purposes of such federal and state statutes.

(b) Notwithstanding any law to the contrary, when the child is scheduled to reside an equal amount of time with both parents, the parents may agree to a designation as joint primary residential parents or to waive the designation of a primary residential parent. In the absence of an agreement between the parties, a single primary residential parent must be designated; provided, that this designation shall not affect either parent’s rights and responsibilities under the parenting plan.

36-6-415. Address for purposes of determining school zoning.

When the child is scheduled to reside an equal amount of time with both parents, the address of either parent may be used to determine school zoning.

37-1-102. Chapter and part definitions.

(a) As used in this chapter, any reference to the department of correction is construed to mean the department of children’s services, unless the reference is clearly intended to designate the department of correction.

(b) As used in this part, unless the context otherwise requires:

(1) “Abuse” exists when a person under the age of eighteen (18) is suffering from, has sustained, or may be in immediate danger of suffering from or sustaining a wound, injury, disability or physical or mental condition caused by brutality, neglect or other actions or inactions of a parent, relative, guardian or caretaker;

(2) “Administrative hearing” is an action by the judge or magistrate of the juvenile court in conformity with legislative intent in terminating the home placement of a juvenile;

(3) “Adult” means any person eighteen (18) years of age or older;

(4) “Caregiver” means any relative or other person living, visiting, or working in the child’s home who supervises or otherwise provides care or

assistance for the child, such as a babysitter, or who is an employee or volunteer with the responsibility for any child at an educational, recreational, medical, religious, therapeutic, or other setting where children are present. "Caregiver" may also include a person who has allegedly used the child for the purpose of commercial sexual exploitation of a minor or trafficking a minor for a commercial sex act, including, but not limited to, as a trafficker. For purposes of this chapter, "caregiver" and "caretaker" shall have the same meaning;

(5) "Child" means:

(A) A person under eighteen (18) years of age; or

(B) A person under nineteen (19) years of age for the limited purpose of:

(i) Remaining under the continuing jurisdiction of the juvenile court to enforce a non-custodial order of disposition entered prior to the person's eighteenth birthday;

(ii) Remaining under the jurisdiction of the juvenile court for the purpose of being committed, or completing commitment including completion of home placement supervision, to the department of children's services with such commitment based on an adjudication of delinquency for an offense that occurred prior to the person's eighteenth birthday; or

(iii) Remaining under the jurisdiction of the juvenile court for resolution of a delinquent offense or offenses committed prior to a person's eighteenth birthday but considered by the juvenile court after a person's eighteenth birthday with the court having the option of retaining jurisdiction for adjudication and disposition or transferring the person to criminal court under § 37-1-134;

(C) In no event shall a person eighteen (18) years of age or older be committed to or remain in the custody of the department of children's services by virtue of being adjudicated dependent and neglected, unruly or in need of services pursuant to § 37-1-175, except as provided in 37-5-106(a)(20);

(D) This subdivision (b)(5) shall in no way be construed as limiting the court's jurisdiction to transfer a person to criminal court under § 37-1-134;

(E) A person eighteen (18) years of age is legally an adult for all other purposes including, but not limited to, enforcement of the court's orders under this subsection (b) through its contempt power under § 37-1-158;

(F) No exception shall be made for a child who may be emancipated by marriage or otherwise; and

(G) A person over the age of eighteen (18) shall be allowed to remain under the continuing jurisdiction of the juvenile court for purposes of the voluntary extension of services pursuant to § 37-2-417;

(6) "Commissioner" means commissioner of children's services;

(7) "Court order" means any order or decree of a judge, magistrate or court of competent jurisdiction. A "valid court order" is one that is authorized by law, and any order entered in the minutes of a court of record is presumed to be valid;

(8) "Custodian" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom temporary legal custody of the child has been given by order of a court;

(9) "Custody" means the control of actual physical care of the child and includes the right and responsibility to provide for the physical, mental,

moral and emotional well-being of the child. "Custody," as herein defined, relates to those rights and responsibilities as exercised either by the parents or by a person or organization granted custody by a court of competent jurisdiction. "Custody" shall not be construed as the termination of parental rights set forth in § 37-1-147. "Custody" does not exist by virtue of mere physical possession of the child;

(10) "Delinquent act" means an act designated a crime under the law, including local ordinances of this state, or of another state if the act occurred in that state, or under federal law, and the crime is not a status offense under subdivision (b)(32)(C) and the crime is not a traffic offense as defined in the traffic code of the state other than failing to stop when involved in an accident pursuant to § 55-10-101, driving while under the influence of an intoxicant or drug, vehicular homicide or any other traffic offense classified as a felony;

(11) "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation;

(12) "Department" means the department of children's services;

(13) "Dependent and neglected child" means a child:

(A) Who is without a parent, guardian or legal custodian;

(B) Whose parent, guardian or person with whom the child lives, by reason of cruelty, mental incapacity, immorality or depravity is unfit to properly care for such child;

(C) Who is under unlawful or improper care, supervision, custody or restraint by any person, corporation, agency, association, institution, society or other organization or who is unlawfully kept out of school;

(D) Whose parent, guardian or custodian neglects or refuses to provide necessary medical, surgical, institutional or hospital care for such child;

(E) Who, because of lack of proper supervision, is found in any place the existence of which is in violation of law;

(F) Who is in such condition of want or suffering or is under such improper guardianship or control as to injure or endanger the morals or health of such child or others;

(G) Who is suffering from abuse or neglect;

(H) Who has been in the care and control of one (1) or more agency or person not related to such child by blood or marriage for a continuous period of six (6) months or longer in the absence of a power of attorney or court order, and such person or agency has not initiated judicial proceedings seeking either legal custody or adoption of the child;

(I) Who is or has been allowed, encouraged or permitted to engage in prostitution or obscene or pornographic photographing, filming, posing, or similar activity and whose parent, guardian or other custodian neglects or refuses to protect such child from further such activity; or

(J)(i) Who has willfully been left in the sole financial care and sole physical care of a related caregiver for not less than eighteen (18) consecutive months by the child's parent, parents or legal custodian to the related caregiver, and the child will suffer substantial harm if removed from the continuous care of such relative;

(ii) For the purposes of this subdivision (b)(13)(J):

(a) A related caregiver shall include the child's biological, step or legal grandparent, great grandparent, sibling, aunt, uncle or any other person who is legally or biologically related to the child; and

(b) A child willfully left with a related caregiver as defined in subdivision (b)(13)(J)(ii)(a) because of the parent's military service shall not be subject to action pursuant to § 37-1-183;

(14) "Detention" means temporary confinement in a secure or closed type of facility that is under the direction or supervision of the court or a facility that is designated by the court or other authority as a place of confinement for juveniles;

(15) "Evidence-based" means policies, procedures, programs, and practices demonstrated by scientific research to reliably produce reductions in recidivism or has been rated as effective by a standardized program evaluation tool;

(16) "Financial obligations" means fines, fees, costs, surcharges, child support, or other monetary liabilities ordered or assessed by any court or state or county government, but does not include restitution;

(17) "Foster care" means the temporary placement of a child in the custody of the department of children's services or any agency or institution, whether public or private, for care outside the home of a parent or relative, by blood or marriage, of the child, whether the placement is by court order, voluntary placement agreement, surrender of parental rights or otherwise;

(18) "Foster parent" means, for purposes other than § 37-2-414, a person who has been trained and approved by the department or licensed child-placing agency to provide full-time temporary out-of-home care at a private residence for a child or children who have been placed in foster care, or in the case of a child or children placed for adoption, a person who has provided care for the child or children for a period of six (6) months or longer in the absence of a power of attorney or court order;

(19) "Juvenile court" means the general sessions court in all counties of this state, except in those counties and municipalities in which special juvenile courts are provided by law, and "judge" means judge of the juvenile court;

(20) "Nonjudicial days" means Saturdays, Sundays and legal holidays. Nonjudicial days begin at four thirty p.m. (4:30 p.m.) on the day preceding a weekend or holiday, and end at eight o'clock a.m. (8:00 a.m.) on the day after a weekend or holiday;

(21) "Positive behavior" means prosocial behavior or progress in a treatment program or on supervision;

(22) "Preliminary inquiry" means the process established by the Rules of Juvenile Practice and Procedure that is used to commence proceedings and to resolve complaints by excluding certain matters from juvenile court at their inception;

(23) "Probation" means casework service as directed by the court and pursuant to this part as a measure for the protection, guidance, and well-being of the child and child's family;

(24) "Protective supervision" means supervision ordered by the court of children found to be dependent or neglected or unruly;

(25) "Restitution" means compensation that is accomplished through actual monetary payment to the victim of the offense by the child who committed the offense, or symbolically, through unpaid community service work by the child, for property damage or loss incurred as a result of the delinquent offense;

(26) "Seclusion":

(A) Means the intentional, involuntary segregation of an individual from the rest of the resident population for the purposes of preventing harm by the child to oneself or others; preventing harm to the child by others; aiding in de-escalation of violent behavior; or serving clinically defined reasons; and

(B) Does not include:

(i) The segregation of a child for the purpose of managing biological contagion consistent with the centers for disease control and prevention guidelines;

(ii) Confinement to a locked unit or ward where other children are present as seclusion is not solely confinement of a child to an area, but separation of the child from other persons;

(iii) Voluntary time-out involving the voluntary separation of an individual child from others, and where the child is allowed to end the separation at will; or

(iv) Temporarily securing children in their rooms during regularly scheduled times, such as periods set aside for sleep or regularly scheduled down time, that are universally applicable to the entire population or within the child's assigned living area;

(27) "Severe child abuse" means:

(A)(i) The knowing exposure of a child to or the knowing failure to protect a child from abuse or neglect that is likely to cause serious bodily injury or death and the knowing use of force on a child that is likely to cause serious bodily injury or death;

(ii) "Serious bodily injury" shall have the same meaning given in § 39-15-402(c);

(B) Specific brutality, abuse or neglect towards a child that in the opinion of qualified experts has caused or will reasonably be expected to produce severe psychosis, severe neurotic disorder, severe depression, severe developmental delay or intellectual disability, or severe impairment of the child's ability to function adequately in the child's environment, and the knowing failure to protect a child from such conduct;

(C) The commission of any act towards the child prohibited by § 39-13-309, §§ 39-13-502 — 39-13-504, § 39-13-515, § 39-13-522, § 39-13-527, § 39-13-531, § 39-13-532, § 39-15-302, § 39-15-402, or § 39-17-1005 or the knowing failure to protect the child from the commission of any such act towards the child;

(D) Knowingly allowing a child to be present within a structure where the act of creating methamphetamine, as that substance is identified in § 39-17-408(d)(2), is occurring; or

(E) Knowingly or with gross negligence allowing a child under eight (8) years of age to ingest an illegal substance or a controlled substance that results in the child testing positive on a drug screen, except as legally prescribed to the child;

(28) "Sexually explicit image" means a lewd or lascivious visual depiction of a minor's genitals, pubic area, breast or buttocks, or nudity, if such nudity is depicted for the purpose of sexual stimulation or gratification of any person who might view such nudity;

(29) "Shelter care" means temporary care of a child in physically unrestricted facilities;

(30) “Significant injury” means bodily injury, including a cut, abrasion, bruise, burn, or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty, involving:

- (A) A substantial risk of death;
- (B) Protracted unconsciousness;
- (C) Extreme physical pain;
- (D) Protracted or obvious disfigurement; or
- (E) Protracted loss or substantial impairment of a function of a bodily member, organ, or mental faculty;

(31) “Telecommunication device” has the same meaning as defined in § 39-16-201;

(32) “Unruly child” means a child in need of treatment and rehabilitation who:

(A) Habitually and without justification is truant from school while subject to compulsory school attendance under § 49-6-3007;

(B) Habitually is disobedient of the reasonable and lawful commands of the child’s parent(s), guardian or other legal custodian to the degree that such child’s health and safety are endangered;

(C) Commits an offense that is applicable only to a child; or

(D) Is away from the home, residence or any other residential placement of the child’s parent(s), guardian or other legal custodian without their consent. Such child shall be known and defined as a “runaway”; and

(33) “Validated risk and needs assessment” means a determination of a child’s risk to reoffend and the needs that, when addressed, reduce the child’s risk to reoffend through the use of an actuarial assessment tool that assesses the dynamic and static factors that predict delinquent behavior.

37-1-103. Exclusive original jurisdiction.

(a) The juvenile court has exclusive original jurisdiction of the following proceedings, which are governed by this part:

(1) Proceedings in which a child is alleged to be delinquent, unruly or dependent and neglected, or to have committed a juvenile traffic offense as defined in § 37-1-146;

(2) Proceedings arising under §§ 37-1-141 — 37-1-144;

(3) Proceedings arising under § 37-1-137 for the purposes of termination of a home placement;

(4) Prosecutions under § 37-1-412, unless the case is bound over to the grand jury by the juvenile court or the defendant is originally charged with a greater offense of which violation of § 37-1-412 is a lesser included offense;

(5) Proceedings arising under § 49-5-5209(e) [repealed]; and

(6) Proceedings in which a parent or legal guardian is alleged to have violated parental responsibilities pursuant to § 37-1-174.

(b) The juvenile court also has exclusive original jurisdiction of the following proceedings, which are governed by the laws relating thereto without regard to the other provisions of this part:

(1) Proceedings to obtain judicial consent to employment, or enlistment in the armed services of a child, if consent is required by law;

(2) Proceedings under the Interstate Compact for Juveniles, compiled as chapter 4, part 1 of this title; and

(3) Proceedings under the Interstate Compact on the Placement of Children, compiled as chapter 4, part 2 of this title.

(c) Except as provided in subsection (d), when jurisdiction has been acquired under this part, such jurisdiction shall continue until the case has been dismissed, or until the custody determination is transferred to another juvenile, circuit, chancery or general sessions court exercising domestic relations jurisdiction, or until a petition for adoption is filed regarding the child in question as set out in § 36-1-116(f). A juvenile court shall retain jurisdiction to the extent needed to complete any reviews or permanency hearings for children in foster care as may be mandated by federal or state law. This subsection (c) does not establish concurrent jurisdiction for any other court to hear juvenile cases, but permits courts exercising domestic relations jurisdiction to make custody determinations in accordance with this part.

(d)(1) A juvenile court in any county of this state shall have temporary jurisdiction to issue temporary orders pursuant to this section upon a petition on behalf of a child present or residing in that county. Upon being informed that a proceeding pertaining to the same child has been commenced in or a determination pertaining to the same child has been made by a court of a county having prior jurisdiction under this part; provided, that the court having temporary jurisdiction shall immediately notify and attempt to communicate with the court having original jurisdiction regarding the status of the child before issuing any temporary order hereunder, the courts shall coordinate with one another to resolve any jurisdictional issues, protect the best interests of the child, and determine the duration of any order entered by a court pursuant to this section.

(2) A court shall have temporary jurisdiction pursuant to this subsection (d) only in a neglect, dependency or abuse proceeding, a termination of parental rights proceeding or an order of protection pursuant to title 36, pertaining to the child whose matter is before the court when the court determines it is necessary to protect the best interests of that child by action of that court.

(3) Upon notice that a proceeding pertaining to the child has been commenced in a court in a county having prior jurisdiction under this part or upon notice that there is a previous determination pertaining to the child that is entitled to be enforced under this part:

(A) The court exercising temporary jurisdiction shall attempt to communicate with the prior court having jurisdiction and resolve jurisdictional issues and determine whether jurisdiction should transfer to the court exercising temporary jurisdiction;

(B) If jurisdiction is not transferred to the court exercising temporary jurisdiction, the orders of the court exercising temporary jurisdiction shall remain in force and effect until an order is obtained from the court having prior jurisdiction regarding the child;

(C) If jurisdiction is not transferred to the court exercising temporary jurisdiction, the court exercising temporary jurisdiction under this part, either upon motion by a party or on its own, shall enter an order specifying the period of time that the court considers adequate to allow the parties to resume the proceeding in the court having prior jurisdiction under this part; and

(D) If jurisdiction is transferred to the court exercising temporary jurisdiction, all matters thereafter pertaining to the child shall be within

456

the jurisdiction of that court.

(e) Notwithstanding any other law to the contrary, transfers under this section shall be at the sole discretion of the juvenile court. In all other cases, jurisdiction shall continue until a person is no longer a child as defined in § 37-1-102.

(f) The court is authorized to require any parent or legal guardian of a child within the jurisdiction of the court to participate in any counseling or treatment program the court may deem appropriate and in the best interest of the child.

(g) Notwithstanding this section, nothing in subdivision (a)(1) shall be construed to preclude a court from exercising domestic relations jurisdiction pursuant to title 36, regardless of the nature of the allegations, unless and until a pleading is filed or relief is otherwise sought in a juvenile court invoking its exclusive original jurisdiction.

37-1-107. Magistrates.

(a)(1) The judge of the juvenile court may appoint one (1) or more suitable persons to act as magistrates at the pleasure of the judge. A magistrate shall be a member of the bar and may qualify and shall hold office at the pleasure of the judge. The compensation of a magistrate shall be fixed by the judge with the approval of the county legislative body or the pertinent governing body, and paid from public funds.

(2) In any county with a population of not less than seventy-one thousand three hundred (71,300) nor more than seventy-one thousand four hundred (71,400), according to the 2000 federal census or any subsequent federal census, the child support magistrate appointed to serve the chancery court shall also serve the juvenile court.

(b) The judge may direct that any case or class of cases over which the juvenile court has jurisdiction shall be heard in the first instance by the magistrate. These cases shall be conducted in the same manner as cases heard by the judge. In the conduct of the proceedings, the magistrate shall have the powers of a judge and shall have the same authority as the judge to issue any and all process.

(c) Upon the conclusion of the hearing, the magistrate shall file an order. The magistrate shall also inform each party of the right to a hearing before the juvenile court judge, of the time limits within which a request for a hearing must be perfected, and of the manner in which to perfect the request.

(d) Any party may, within ten (10) days after entry of the magistrate's order, file a request with the court for a de novo hearing by the judge of the juvenile court. The judge shall allow a hearing if a request for hearing is filed. No later than ten (10) days after the entry of the magistrate's order, the judge may, on the judge's own initiative, order a hearing of any matter heard before a magistrate. However, if the child pleads guilty or no contest before the magistrate in a delinquency or unruly proceeding, the child waives the right to request an adjudicatory hearing before the judge and the judge may not order an adjudicatory hearing in such proceeding. If the plea includes an agreement as to disposition, the child also waives the right to request a hearing before the judge regarding disposition and the judge may not order a hearing in such proceeding. Nothing herein alters the court's jurisdiction to hear post-dispositional issues, including, but not limited to, judicial reviews or collateral

challenges. There shall be no hearing in any delinquent or unruly case in which the petition is dismissed by the magistrate after a hearing on the merits. Unless the judge orders otherwise, the order of the magistrate shall be the order of the court pending the hearing.

(e) If no hearing before the judge is requested, or if the right to the hearing is expressly waived by all parties within the specified time period, the magistrate's order becomes the order of the court. A party may appeal the order pursuant to § 37-1-159.

(f) Any hearing by a magistrate on any preliminary matter shall be final and not reviewable by the judge of the juvenile court, except on the court's own initiative. The setting of bond in detention hearings and any matter that is a final adjudication of a child shall not be construed to be preliminary matters under this section and are reviewable by the judge of the juvenile court upon request or upon the court's own initiative, except as provided in this section.

(g) All parties to the hearing before the magistrate shall be parties to a de novo hearing before the judge.

37-1-110. Informal adjustment without adjudication — Pretrial diversion — No admission required.

(a)(1) Before or after a petition is filed, a designated court officer may informally resolve a complaint containing delinquent or unruly allegations without adjudication by giving counsel and advice to the child if such informal resolution would be in the best interest of the public and the child, and the child and the child's parents, guardian, or other custodian consent to the informal adjustment with knowledge that consent is not obligatory. The informal adjustment shall not extend beyond three (3) months from the day commenced, unless extended by the court for an additional period not to exceed a total of six (6) months, and does not authorize the attachment or detention of the child if not otherwise permitted by this part.

(2) If the child and the victim agree to restitution, restitution may be paid independently of informal adjustment; however, financial obligations shall not be assessed or collected against a child as part of an informal adjustment pursuant to this section.

(b)(1) After a petition has been filed and a designated court officer determines that an unruly or delinquent case is an appropriate case for diversion from adjudication, the parties may agree to pretrial diversion that suspends the proceedings and places the child under supervision on terms and conditions agreeable to the designated court officer and approved by the court. A child may not be placed on pretrial diversion if the delinquent act alleged is an offense described in § 37-1-153(b).

(2) A pretrial diversion agreement shall remain in force for a maximum of six (6) months unless the child is discharged sooner by the court. Upon application of any party to the proceedings, made before expiration of the six-month period and after notice and a hearing, pretrial diversion may be extended by the court for an additional six (6) months.

(3) If, prior to discharge by the court or expiration of the pretrial diversion period, the child fails to fulfill the terms and conditions of the pretrial diversion agreement, the original petition may be reinstated and the case may proceed to adjudication just as if the agreement had never been entered.

(4) Attachment and detention of a child are not authorized for the violation of a pretrial diversion agreement unless otherwise permitted by

458

this part.

(c) The petition shall be dismissed with prejudice once a child completes an informal adjustment pursuant to subsection (a) or pretrial diversion pursuant to subsection (b) without reinstatement of the original delinquent or unruly petition.

(d) No admission shall be required as part of informal adjustment or pretrial diversion, and any statements made by the child during the preliminary inquiry, informal adjustment pursuant to subsection (a), or pretrial diversion pursuant to subsection (b) are not admissible prior to a dispositional hearing.

37-1-122. Summons — Attachment where summons ineffectual.

(a) After the petition has been filed, the clerk shall schedule a time for a hearing and issue summonses to the parties. In case a summons cannot be served or the party served fails to obey the same, and in any case where it is made to appear to the court that such summons will be ineffectual, except as described in subsection (b), an attachment may issue, on the order of the court, against the:

- (1) Parent or guardian;
- (2) Person having custody of the child;
- (3) Person with whom the child may be; or
- (4) Child.

(b)(1) An attachment for a violation of conditions or limitations of probation pursuant to § 37-1-131 or § 37-1-132, home placement supervision pursuant to § 37-1-137, or diversion pursuant to § 37-1-129 shall not issue unless:

(A) The child poses a significant likelihood of:

- (i) Significant injury or sexual assault to another person;
- (ii) Danger to self, such that a delay would endanger the child's safety or health; or
- (iii) Damage to property;

(B) The child cannot be located by the supervising person, persons, or entity after documented efforts to locate the child by the supervising person, persons, or entity; or

(C) The child fails to appear for a court proceeding.

(2) If the child has an attorney of record, that attorney must be served with any attachment request made to the court.

(3) A child may not be detained pursuant to an attachment under this subsection (b), unless the child meets the criteria of § 37-1-114.

37-1-123. Use of detention.

Detention shall not be ordered as a disposition under § 37-1-132, and neither a child nor that child's attorney may waive the detention-related prohibitions of that section, including as part of any pre-adjudication agreements.

37-1-129. Hearings — Judicial Diversion — Findings — Disposition of child.

(a)(1) If a child alleged to be delinquent or unruly enters a plea of guilty or no contest, or after an adjudicatory hearing, the court may defer further proceedings and place the child on judicial diversion and probation subject to

reasonable conditions, which may include completion of substance abuse and mental health treatment services where appropriate, without entering a judgment of guilty and with the consent of the child. For delinquent offenses, such reasonable conditions must be consistent with a validated risk and needs assessment. Probation conditions must not include a period of detention or placing the child in custody of the department, but may include a transfer or grant pursuant to § 37-1-131(a)(1). A child must not be placed on judicial diversion if the delinquent act alleged is an offense described in § 37-1-153(b)(2), if the child has previously been adjudicated delinquent for such an offense, or if the matter is dismissed after a hearing on the merits.

(2) A judicial diversion agreement shall remain in force for a maximum of six (6) months unless the child is discharged sooner by the court, subject to this subdivision (a)(2). Before expiration of the six-month period, and after notice and a hearing, the court may extend judicial diversion for an additional period not to exceed six (6) months, but only if the court finds and issues a written order that:

(A) States that it is in the best interest of the child that a condition or conditions of judicial diversion remain in effect; and

(B) Specifies the condition or conditions that shall remain in effect and why that continued effectiveness is in the best interest of the child.

(3)(A) If the supervising authority finds that the child has violated the terms or conditions of judicial diversion, the supervising authority may file a petition alleging a violation of the terms or conditions of judicial diversion with the court; provided, that the court, in its discretion, may direct the supervising authority that, in some or all circumstances, such a petition should be filed only if the supervising authority makes and documents attempts to address the noncompliant behavior and determines and documents the reasons for which court intervention is needed to address the noncompliance.

(B) If a violation of any of the terms of judicial diversion probation is alleged, the child shall be given notice of the violation and an opportunity to be heard concerning the alleged violation. If, after a hearing, the court determines that a violation has occurred, the court may enter an adjudication of guilty and proceed to a dispositional hearing. If no violation is found, the court may continue the period of probation or may dismiss the petition.

(4) If, during the period of probation, the child does not violate any of the conditions of the probation, then upon expiration of the period, the court shall discharge the child and dismiss the proceedings against the child.

(b)(1) If an adjudicatory hearing is held, the court shall make and file its findings as to whether the child is a dependent and neglected child, or, if the petition alleges that the child is delinquent or unruly, whether the acts ascribed to the child were committed by that child. If the court finds that the child is not a dependent or neglected child or that the allegations of delinquency or unruly conduct have not been established, it shall dismiss the petition and order the child discharged from any detention or other restriction theretofore ordered in the proceeding.

(2) If the petition alleged the child was dependent and neglected as defined in § 37-1-102(b)(13)(G), or if the court so finds regardless of the grounds alleged in the petition, the court shall determine whether the parents or either of them or another person who had custody of the child

committed severe child abuse. The court shall file written findings of fact that are the basis of its conclusions on that issue within thirty (30) days of the close of the hearing or, if an appeal or a petition for certiorari is filed, within five (5) days thereafter, excluding nonjudicial days. If the court finds the child is dependent and neglected, a dispositional hearing shall be held. In scheduling the hearing, the court shall give priority to proceedings in which a child has been removed from the child's home before an order of disposition has been made.

(3) If the petition alleged the child was delinquent or unruly and the court finds that the child committed the alleged delinquent or unruly acts, the court shall further determine whether the child is in need of treatment or rehabilitation and make and file its findings thereon. In the absence of evidence to the contrary, evidence of the commission of acts that constitute a felony or that reflect recidivistic delinquency is sufficient to sustain a finding that the child is in need of treatment or rehabilitation. If the court finds the child is in need of treatment and rehabilitation, a dispositional hearing shall be held. If the court finds the child is not in need of treatment or rehabilitation, it shall dismiss the petition and discharge the child from any detention or other restriction. If the court continues its determination of whether the child is in need of treatment and rehabilitation or the dispositional hearing, it shall make an appropriate order for detention of the child or the child's release from detention, subject to supervision of the court during the period of the continuance. In scheduling the hearings, the court shall give priority to proceedings in which a child is in detention or has otherwise been removed from the child's home before an order of disposition has been made. The court shall minimize the use of detention between adjudication and disposition. In no event shall a dispositional hearing be postponed or continued because there is a waitlist for a suitable placement unless the child and, if applicable, the child's attorney, agree to the postponement or continuance in writing.

(c)(1) Any order of the court that places custody of a child with the department shall empower the department to select any specific residential or treatment placements or programs for the child according to the determination made by the department, its employees, agents or contractors.

(2) The court may review the residential or treatment placement of a child placed in the department's custody, and within ninety (90) days of the placement, the court may, on its own motion, order a hearing to receive evidence and testimony with regard to the appropriateness of the child's residential or treatment placement. The court shall provide notice of the hearing to the department, to the child's biological parent or parents, and any other person who has been primarily responsible for the care of the child during the twelve (12) months prior to the child's placement in the department's custody. The court shall allow thirty (30) days from the time such notices are sent before the hearing date is set. The court shall issue a placement recommendation based on a preponderance of the evidence to the department within ten (10) days after the conclusion of the hearing. Upon receiving the court's recommendation, the department shall issue a determination as to the child's placement within fifteen (15) days. The department shall notify the court, the child's biological parent or parents, and any other person who has been primarily responsible for the care of the child during the twelve (12) months prior to the child's placement.

37-1-131. Delinquent child — Disposition — Restitution.

(a) If the child is found to be a delinquent child, the court may make any of the following orders of disposition best suited to the child's treatment, rehabilitation and welfare:

(1) Subject to conditions and limitations as the court prescribes, transfer temporary legal custody or grant permanent guardianship in accordance with part 8 of this chapter to any relative or other individual with a relationship with the child who is found by the court to be qualified to receive and care for the child, if the court finds that such a transfer or grant is in the best interest of the child;

(2)(A)(i) Placing the child on probation under the supervision of the probation officer of the court or the department of children's services, any person, or persons or agencies designated by the court, or the court of another state as provided in § 37-1-143, under conditions and limitations prescribed by the court in consultation with the supervising authority and consistent with a validated risk and needs assessment, which may include completion of substance abuse and mental health treatment services where appropriate;

(ii)(a) A child may be placed on probation for a maximum period of six (6) months, subject to this subdivision (a)(2)(A)(ii). Before expiration of the first six-month period or any extension period thereafter, and after notice and a hearing, the court may extend probation for additional periods not to exceed six (6) months each, but only if the court finds and issues a written order that:

(1) States that it is in the best interest of the child that a condition or conditions of probation remain in effect; and

(2) Specifies the condition or conditions that shall remain in effect and why that continued effectiveness is in the best interest of the child; and

(b) If the requirements of subdivision (a)(2)(A)(ii)(a) have been met, probation may continue only so long as it is in the best interest of the child that the condition or conditions of probation remain in effect;

(iii) If the supervising authority finds the child has violated the conditions or limitations of probation, the supervising authority may file a petition alleging a violation of the conditions or limitations of probation with the court; provided, that the court, in its discretion, may direct the supervising authority that, in some or all circumstances, such a petition should be filed only if the supervising authority makes and documents attempts to address the noncompliant behavior and determines and documents the reasons for which court intervention is needed to address the noncompliance;

(iv) If the court finds that no violation has occurred, the child shall be allowed to resume the former conditions of probation, or probation may be terminated; and

(v) If in a subsequent proceeding, the court finds the child has violated any of the conditions or limitations of probation, the court may modify conditions consistent with the results of the previously administered validated risk and needs assessment, including ordering a transfer or grant pursuant to subdivision (a)(1). The court shall not order a child placed in the custody of the department for a violation of

the conditions or limitations of probation unless:

(a) The child is separately adjudicated dependent or neglected and placed pursuant to § 37-1-130;

(b) The child is separately adjudicated delinquent and placed pursuant to this section for an eligible delinquent offense arising out of a subsequent criminal episode other than the offense for which the child has been placed on probation; or

(c)(1) The court finds by clear and convincing evidence that the child is in imminent risk of danger to the child's health or safety and needs specific treatment or services that are available only if the child is placed in the custody of the department; and

(2) A child placed in the custody of the department under this subdivision (a)(2)(A)(v)(c) shall remain in custody so long as necessary to complete the treatment or services, which shall be evidence-based and provided by a qualified provider, but shall remain in custody no longer than six (6) months; provided, that the court may order that the child remain in custody for up to an additional six (6) month period if the court finds after a hearing or stipulation that:

(A) The child needs services or treatment that are available only if the child is in custody; and

(B) The services or treatment the child needs are evidence-based and will be provided by a qualified provider;

(B) The court shall make a finding that the child's school shall be notified, if:

(i) The child has been adjudicated delinquent for any of the following offenses:

(a) First degree murder, as defined in § 39-13-202;

(b) Second degree murder, as defined in § 39-13-210;

(c) Rape, as defined in § 39-13-503;

(d) Aggravated rape, as defined in § 39-13-502;

(e) Rape of a child, as defined in § 39-13-522;

(f) Aggravated rape of a child, as defined in § 39-13-531;

(g) Aggravated robbery, as defined in § 39-13-402;

(h) Especially aggravated robbery, as defined in § 39-13-403;

(i) Kidnapping, as defined in § 39-13-303;

(j) Aggravated kidnapping, as defined in § 39-13-304;

(k) Especially aggravated kidnapping, as defined in § 39-13-305;

(l) Aggravated assault, as defined in § 39-13-102;

(m) Felony reckless endangerment pursuant to § 39-13-103;

(n) Aggravated sexual battery, as defined in § 39-13-504;

(o) Voluntary manslaughter, as defined in § 39-13-211;

(p) Criminally negligent homicide, as defined in § 39-13-212;

(q) Sexual battery by an authority figure, as defined in § 39-13-527;

(r) Statutory rape by an authority figure, as defined in § 39-13-532;

(s) Prohibited weapon, as defined in § 39-17-1302;

(t) Unlawful carrying or possession of a firearm, as defined in § 39-17-1307;

(u) Carrying weapons on school property, as defined in § 39-17-1309;

(v) Carrying weapons on public parks, playgrounds, civic centers, and other public recreational buildings and grounds, as defined in

§ 39-17-1311;

(w) Handgun possession, as defined in § 39-17-1319;

(x) Providing handguns to juveniles, as defined in § 39-17-1320; or

(y) Any violation of § 39-17-417 that constitutes a Class A or Class B felony; and

(ii) School attendance is a condition of probation, or if the child is to be placed in the custody of a state agency and is to be placed in school by a state agency or by a contractor of the state agency;

(C) The court may make a finding that the child's school shall be notified based on the circumstances surrounding the offense if the adjudication of delinquency is for an offense not listed in this subsection (a);

(D) The court shall then enter an order directing the youth service officer, probation officer, or the state agency, if the child has been committed to the custody of the state agency, to notify the school principal in writing of the nature of the offense and probation requirements, if any, related to school attendance, within five (5) days of the order or before the child resumes or begins school attendance, whichever occurs first. In individual cases when the court deems it appropriate, the court may also include in the order a requirement to notify county and municipal law enforcement agencies having jurisdiction over the school in which the child will be enrolled;

(E) When the principal of a school is notified, the principal of the child's school, or the principal's designee, shall convene a meeting to develop a plan within five (5) days of the notification. Reasonable notice shall be given of the date and time of the meeting. The child, the department of children's services if the child is in state custody, the child's parent/guardian/legal caretaker if not in state custody, and other appropriate parties identified by the child, the department of children's services or parent/guardian/legal caretaker shall be invited to the meeting. The plan shall set out a list of goals to provide the child an opportunity to succeed in school and provide for school safety, a schedule for completion of the goals and the personnel who will be responsible for working with the child to complete the goals;

(F) The information shall be shared only with the employees of the school having responsibility for classroom instruction of the child and the school counselor, social worker or psychologist who is involved in developing a plan for the child while in the school, and with the school resource officer, and any other person notified pursuant to this section. The information is otherwise confidential and shall not be shared by school personnel with any other person or agency, except as may otherwise be required by law. Notification in writing of the nature of the offense committed by the child and any probation requirements and the plan shall not become a part of the child's student record;

(G) In no event shall a child be delayed from attending school for more than five (5) school days from the date of notice;

(H) Notwithstanding any other state law to the contrary, the department of children's services shall develop a written policy consistent with federal law detailing the information to be shared by the department with the school for children in its legal custody when notification is required;

(I) Upon the subsequent enrollment of any such student in any other LEA, the parents or custodians of the student, and the administrator of any school having previously received the same or similar notice pursuant to this section, shall notify the school in the manner specified in § 49-6-3051;

(J) A violation of the confidentiality provisions of subdivision (a)(2)(F) is a Class C misdemeanor;

(K)(i) If the court does not place the child in state custody, but orders the child to complete an inpatient mental health treatment program at a hospital or treatment resource as defined in § 33-1-101, upon leaving that hospital or treatment resource, the principal of the child's school shall be notified and the principal of the child's school or the principal's designee shall convene a meeting to develop a transition plan within five (5) days of the notification. Reasonable notice shall be given of the date and time of the meeting. The child, child's parent/guardian/legal caretaker, other relevant service providers, and other appropriate parties identified by the child and parent/guardian/legal caretaker shall be invited to the meeting;

(ii) If an information release is executed in compliance with § 33-3-109 that provides the principal or other designated school personnel access to certain information concerning the child, the principal or other designated school personnel may work with the child's mental health provider to develop this plan. The transition plan shall set out a list of goals to provide the child an opportunity to succeed in school and provide for school safety, a schedule for completion of the goals and the personnel who will be responsible for working with the child to complete the goals. The information shall be shared only with employees of the school having responsibility for classroom instruction of the child, but the information is otherwise confidential and shall not be shared by school personnel with any other person or agency, except as may be otherwise required by law. The notification in writing of the nature of the offense committed by the child, any probation requirements, and the transition plan developed pursuant to this subdivision (a)(2)(K)(ii) shall not become a part of the child's student record;

(iii) In no event shall a child be delayed from attending school for more than five (5) school days;

(iv) A violation of the confidentiality provisions of subdivision (a)(2)(K)(ii) is a Class C misdemeanor;

(3) Placing the child in an institution, camp, or other facility for delinquent children operated under the direction of the court or other local public authority. Pursuant to this subdivision (a)(3), the court may order detention for a maximum of forty-eight (48) hours for the delinquent child to be served only on days the school in which the child is enrolled is not in session. The court may order the delinquent child to participate in programming at a nonresidential facility for delinquent children operated under the direction of the court or other local public authority after the period of detention. The court shall report each disposition of detention to the administrative office of the courts;

(4)(A) Subject to the restrictions of § 37-1-129(c) and this subdivision (a)(4), commit the child to the department of children's services, which commitment shall not extend past the child's nineteenth birthday;

(B) A child is eligible for commitment to the department only if:

(i) The current offense for which the child has been adjudicated delinquent and is subject to disposition would constitute a felony if committed by an adult;

(ii)(a) The current offense for which the child has been adjudicated delinquent and is subject to disposition would constitute a misdemeanor if committed by an adult; and

(b) The child has previously been adjudicated delinquent for two (2) or more offenses arising from separate incidents that would constitute either a felony or misdemeanor if committed by an adult, including adjudications in other jurisdictions that, if committed in this jurisdiction, would constitute a felony or misdemeanor; or

(iii)(a) The court finds by clear and convincing evidence that the child is in imminent risk of danger to the child's health or safety and needs specific treatment or services that are available only if the child is placed in the custody of the department; and

(b) A child placed in the custody of the department under this subdivision (a)(4)(B)(iii) shall remain in custody so long as necessary to complete the treatment or services, which shall be evidence-based and provided by a qualified provider, but shall remain in custody no longer than six (6) months; provided, that the court may order that the child remain in custody for up to an additional six (6) month period if the court finds after a hearing or stipulation that:

(1) The child needs treatment or services that are available only if the child is in custody; and

(2) The treatment or services the child needs are evidence-based and will be provided by a qualified provider;

(5) [Deleted by 2018 amendment, effective July 1, 2019.]

(6) Committing the child to the custody of the county department of children's services in those counties having such a department, but only if the child is eligible for commitment to the department under subdivision (a)(4) and subject to the conditions applicable to department commitment under § 37-1-137;

(7)(A) Ordering the child to perform community service work with such work being in compliance with federal and state child labor laws. For first-time delinquent acts involving alcohol or beer, in its order for community service work, the court may require the juvenile to spend a portion of such time in the emergency room of a hospital, only if, and to the extent, the hospital agrees with such action;

(B) No charitable organization, municipality, county or political subdivision thereof utilizing juveniles performing community service work pursuant to this chapter shall be liable for any injury sustained by the juvenile or other person, proximately caused by the juvenile, while the juvenile is performing a work project for such organization or governmental entity, if the organization or governmental entity exercised due care in the supervision of the juvenile;

(C) No charitable organization, municipality, county or political subdivision thereof, nor any employee or officer thereof, shall be liable to any person for any act of a juvenile while the juvenile is on a community work project for such organization or governmental entity, if the organization or governmental entity exercised due care in the supervision of the juvenile;

(D) No charitable organization, municipality, county or political subdivision thereof, nor any employee or officer thereof, shall be liable to any juvenile or the juvenile's family for death or injuries received, proximately caused by the juvenile, while the juvenile is on a community work project for such organization or governmental entity, if the organization or governmental entity exercised due care in the supervision of the juvenile;

(E) The authority and protection from liability provided by this section is supplemental and in addition to any other authority and protection provided by law;

(F) The court shall not order a child placed in the custody of the department or otherwise remove the child from the child's home, including the home of a parent, guardian, or other legal custodian for any length of time, for failure to complete community service work or satisfy conditions associated with community service work as ordered by the court; and

(8)(A) In lieu of committing a child to the custody of the department of children's services and subject to the requirements of subdivision (a)(8)(B), the court may order any of the following if the child is found to be a delinquent child:

(i) Assign a long-term mentor to such child; or

(ii) Require that the delinquent child or any of the child's family members receive counseling services from any counseling service provided through or approved by the juvenile court;

(B) An order may be issued under subdivision (a)(8)(A) only if the funding necessary to implement such order is appropriated by the legislative body of the county in which the court is located or is provided by grants from public or private sources.

(b)(1) If the child is found to be delinquent, the court shall determine if any monetary damages actually resulted from the child's delinquent conduct. Upon a determination that monetary damages resulted from such conduct, the court shall order the child to make restitution for such damages unless the court further determines that the specific circumstances of the individual case render such restitution, or a specified portion thereof, inappropriate. The court shall identify whether a restorative justice program addressing loss resulting from a delinquent act is available and may be utilized appropriately in the place of financial restitution. Any financial obligations or restitution assessed against the child or the child's parents, legal custodians, or guardians shall be considered collectively with community service work to ensure that the order of disposition is reasonable and, where applicable, prioritizes restitution to the victim. In determining whether an order of disposition is reasonable, the court may consider whether the child and the child's parents, legal custodians, or guardians have the ability to complete the requirements of the order within six (6) months.

(2)(A) IF restitution is ordered pursuant to this subsection (b) in those cases where the court has made a finding that:

(i) A specified amount is owed;

(ii) Such amount is ordered to be paid pursuant to a specific payment schedule; and

(iii) The total amount of such ordered restitution is not paid by the time the juvenile court determines that discharge of a case is appropriate or no longer has jurisdiction over the child;

THEN, notwithstanding § 37-1-133(b) or any other law to the contrary,

the recipient of such restitution may convert the unpaid balance of the restitution ordered by the court into a civil judgment in accordance with the procedure set out in this subsection (b). The payment of such civil judgment shall be at the same payment schedule as that as when the offender was a juvenile.

(B) Under such judgment, payments shall be continued to be made under the specific payment schedule ordered by the juvenile court until the judgment has been satisfied.

(3) The restitution recipient shall file a certified copy of the juvenile court's restitution order with any court having jurisdiction over the total amount of restitution ordered.

(4) Upon receipt of such a restitution order, the court shall take proof as to the amount of ordered restitution actually paid. If the court finds that the amount of restitution actually paid is less than the total amount of restitution ordered by the juvenile court, it shall enter a judgment in favor of the restitution recipient and against the offender for the amount of the unpaid balance of such restitution.

(5) A judgment entered pursuant to this subsection (b) shall remain in effect for a period of ten (10) years from the date of entry and shall be enforceable by the restitution recipient in the same manner and to the same extent as other civil judgments; however, such civil judgment shall not be referred to any collection service as defined by § 62-20-102.

(c)(1) This subsection (c) shall apply to a juvenile who is adjudicated delinquent, but not committed to the custody of the department of children's services, for an act that if committed by an adult would be one (1) or more of the following offenses:

- (A) First degree murder, as prohibited by § 39-13-202;
- (B) Second degree murder, as prohibited by § 39-13-210;
- (C) Voluntary manslaughter, as prohibited by § 39-13-211;
- (D) Criminally negligent homicide, as prohibited by § 39-13-212;
- (E) Rape, as prohibited by § 39-13-503;
- (F) Aggravated rape, as prohibited by § 39-13-502;
- (G) Rape of a child, as prohibited by § 39-13-522;
- (H) Aggravated rape of a child, as prohibited by § 39-13-531;
- (I) Aggravated robbery, as prohibited by § 39-13-402;
- (J) Especially aggravated robbery, as prohibited by § 39-13-403;
- (K) Kidnapping, as prohibited by § 39-13-303;
- (L) Aggravated kidnapping, as prohibited by § 39-13-304;
- (M) Especially aggravated kidnapping, as prohibited by § 39-13-305;
- (N) Aggravated assault, as prohibited by § 39-13-102;
- (O) Felony reckless endangerment, as prohibited by § 39-13-103;
- (P) Sexual battery, as prohibited by § 39-13-505;
- (Q) Aggravated sexual battery, as prohibited by § 39-13-504; or
- (R) Any other Class A or Class B felony.

(2) If a court finds a juvenile to be delinquent as a result of an act listed in subdivision (c)(1), the court shall have broad discretion to issue orders and, in conjunction with representatives from the LEA, to change the educational assignment of the juvenile. The court shall involve representatives of the LEA, as necessary, to ascertain a proper educational assignment and the availability of secure educational facilities for the juvenile who, through actions of the court, is facing personal restrictions or being released

with compulsory attendance in school as a condition of personal restriction or release. There shall be a presumption in favor of issuing a court order prohibiting the juvenile from attending the same educational placement as the victim.

(3) The court shall have discretion to determine how best to restrict future contact of the defendant with the victim while the victim is at school or in other public settings.

(4) When consulted by the court, the representatives of the LEA shall provide a list of alternatives to attendance at the school which is attended by the victim. This information shall include the availability of programs including another school assignment within the district, alternative school, virtual education, homebound instruction, adult education programs, and high school equivalency testing eligibility.

(5) The school resource officer shall be authorized to assist school officials in the enforcement of orders issued by the court and shall be made fully aware of the confidential nature of any order and the student's educational assignment.

(6) [Deleted by 2018 amendment, effective July 1, 2018.]

(d)(1) Notwithstanding this section to the contrary, a juvenile who is adjudicated delinquent for conduct that, if committed by an adult, would constitute one (1) of the offenses set out in subdivision (d)(3) shall be committed to the department of children's services for a period of not less than one (1) year; provided, that for the offenses listed in subdivisions (d)(3)(D) and (E), a court may, upon a finding of good cause, order a commitment for a term of less than one (1) year or decline to order a commitment.

(2) The commitment required by subdivision (d)(1) must be the least restrictive disposition permissible for an applicable juvenile, and nothing in this subsection (d) prohibits the court from:

(A) Transferring a juvenile to whom this section applies to adult court to stand trial as an adult as provided in § 37-1-134;

(B) Extending the term of commitment beyond the one-year minimum required by this subsection (d); or

(C) Any other dispositional alternative more restrictive than this subsection (d).

(3) The offenses to which this subsection (d) applies are:

(A) First degree murder, as prohibited by § 39-13-202;

(B) Second degree murder, as prohibited by § 39-13-210;

(C) Voluntary manslaughter, as prohibited by § 39-13-211;

(D) Criminally negligent homicide, as prohibited by § 39-13-212; and

(E) Reckless homicide, as prohibited by § 39-13-215.

37-1-137. Commitment of delinquent children to the department of children's services.

(a)(1)(A) An order of the juvenile court committing a delinquent child to the custody of the department of children's services shall be for an indefinite time.

(B) If a juvenile offender is tried and adjudicated delinquent in juvenile court for the offense of first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated

sexual battery, kidnapping, especially aggravated kidnapping, aggravated robbery, especially aggravated robbery, aggravated arson, aggravated burglary, especially aggravated burglary, commission of an act of terrorism, carjacking, or violations of § 39-17-417(b), (i) or (j), or an attempt to commit any such offenses, or has been previously adjudicated delinquent in three (3) felony offenses arising out of separate criminal episodes at least one (1) of which has resulted in institutional commitment to the department of children's services, or is within six (6) months of the child's eighteenth birthday at the time of the adjudication of the child's delinquency, the commitment may be for a determinate period of time but in no event shall the length of the commitment be greater than the sentence for the adult convicted of the same crime, nor shall such commitment extend past the offender's nineteenth birthday. Commitment under this section shall not exceed the sentences provided for by the Tennessee Criminal Sentencing Reform Act of 1989, compiled in title 40, chapter 35, and in no event shall a juvenile offender be sentenced to Range II or Range III.

(2) However, no child shall be committed to such department when the court deems it in the best interest of the child without a pre-commitment report including, but not limited to:

- (A) Educational status;
- (B) Family background information;
- (C) Employment background;
- (D) Physical examination and report; and
- (E) Psychological report (if possible).

(3) Such report shall be prepared by the probation officer assigned to the juvenile to be committed.

(4) Notwithstanding subdivisions (a)(2) and (3), the information in a pre-commitment report shall be provided only when presently available and shall not be provided at an additional cost to the department.

(5) The department may place the child in a suitable state institution, foster home or group home, or the department may purchase services from any agency, public or private, that is authorized by law to receive or provide care or services for children.

(6) The commissioner, in consultation with the executive committee of the Tennessee council of juvenile and family court judges, shall promulgate rules and regulations relative to commitment criteria for the incarceration of juvenile offenders in facilities operated or managed by the department. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b)(1) Subject to subsection (c), a delinquent child committed to the custody of the department for an indefinite time shall be discharged or placed on home placement supervision after a maximum of six (6) months, excluding any amount of time that a child is absent from placement for whatever reason, unless:

- (A) The treatment and rehabilitation of the child require that the child remain in custody beyond six (6) months to complete an evidence-based program in a custodial setting addressing a treatment need identified by the previously administered validated risk and needs assessment;
- (B) The child is alleged to have committed a new delinquent act; or
- (C) The child is alleged to be an escapee from a secure juvenile facility

or institution.

(2) The commissioner shall prescribe procedures whereby the child's treatment, rehabilitation, and progress shall be reviewed monthly and a recommendation for or against home placement or discharge shall be made to the commissioner or the commissioner's designee at least quarterly.

(c)(1)(A) The commissioner or the commissioner's designee, with the assent of the committing court, may make a home placement of a child under the continuing supervision of the department.

(B) Notification of a home placement of a child shall be made in writing to the committing court at least fifteen (15) days prior to the proposed date of such placement. Unless the committing court makes an objection in writing to the commissioner or the commissioner's designee or sets a hearing within the fifteen-day period with such hearing to be held at the earliest possible date, the court shall be considered to have assented to the home placement and the child shall immediately be released to home placement supervision.

(C) The first thirty (30) days after the child's return to home placement supervision shall be a trial home pass with the department retaining legal custody of the child. If the child successfully completes the trial home pass, at the end of the thirty-day trial home pass the child shall automatically continue on home placement supervision status, unless the court has ordered that supervision status is not necessary, and the department's legal custody of the child shall terminate. Such home placement supervision by the department shall continue until the court orders a discharge of such supervision under subdivision (g)(1).

(D) If the committing court objects to the home placement supervision, such objections shall be made in writing to the commissioner or the commissioner's designee setting forth the reasons for such objections. A valid ground for such objection shall include, but not be limited to, consideration of the nature of the offense committed by the juvenile. No juvenile shall be released on home placement supervision if the committing court objects in the prescribed written manner. Upon receiving the objection from the committing court, the commissioner or the commissioner's designee shall review the child's file and consult with the committing judge regarding such denial in the form of a hearing set by either the court or by motion of the department or any attorney for the child.

(E) If no agreement is reached between the department and the committing judge, then the commissioner or the commissioner's designee shall request a hearing on the proposed placement by a three-judge panel to be appointed by the executive committee of the Tennessee council of juvenile and family court judges. Such three-judge panel shall not include the committing judge. The panel will hear and resolve the controversy within thirty (30) days of receipt of the commissioner's or the commissioner's designee's request for a hearing by the executive secretary of the council and the decision of the panel shall be final.

(2) In the event the juvenile offender is a person described in subdivision (a)(1)(B) and is given a determinate commitment, and the commissioner or the commissioner's designee is of the opinion that the juvenile offender is a fit subject to return to home placement prior to the achievement of committal reduction credits as set out in subsection (h), the commissioner or the commissioner's designee shall request a hearing before the judge of the

juvenile court in which the original commitment occurred. The request shall state the reasons for recommending the early release placement and shall make specific recommendations as to where the child will be placed. A copy of the request for a hearing shall be supplied to the district attorney general. If, on review of the record, the court is of the opinion that the request is well taken and the district attorney general has no objection, the judge may order the early release placement without a hearing. Otherwise, the court shall schedule a hearing within fifteen (15) days of the receipt of the request for hearing. At the hearing, the department, the juvenile offender, and the state shall be given an opportunity to be heard in support of or in opposition to the proposed early release placement and all of the parties may subpoena witnesses to testify on any issue raised by the proposed placement. The court may make such orders pertaining to such placement as the court determines are justified under the proof produced at the hearing for such early release placement. The court's decision may be appealed under § 37-1-302.

(d)(1)(A) If the designee of the department supervising a delinquent child on home placement supervision has reasonable cause to believe that such child has violated the conditions of home placement supervision in an important respect after the trial home pass has ended, the designee may file a petition alleging a violation of home placement supervision; provided, that, unless a new petition has been filed alleging the child has committed a new delinquent offense or habitual and unlawful absence pursuant to § 49-6-3007, the court, in its discretion, may direct the designee that, in some or all circumstances, such a petition should be filed only if the designee makes and documents attempts to address the noncompliant behavior and determines and documents the reasons for which court intervention is needed to address the noncompliance.

(B) The court may require that the child be placed in detention pending adjudication of the petition, but only in accordance with § 37-1-114. The department is prohibited from taking the child into custody until the court finds that the child has violated conditions of the home placement supervision by incurring an adjudication of delinquency for a new offense that meets the eligibility criteria for commitment to the department under § 37-1-131(a)(4) and the court terminates the home placement supervision. Nothing in this subdivision (d)(1) shall prevent the transfer of a juvenile under § 37-1-134.

(2) No such court permission is required during the trial home pass and the department is authorized to remove the child from the home, but only if the child cannot be located by the designee after documented efforts to locate the child or a new petition has been filed alleging the child has committed a delinquent offense arising from a separate incident from the original petition. A notice of such removal and disruption of the trial home pass shall be filed with the court within ten (10) days as a violation allegation or other appropriate petition or motion and the legal custody of the department is not terminated. A review hearing on such action shall be held within thirty (30) days of such filing. Nothing in this subdivision (d)(2) shall prevent the transfer of a juvenile under § 37-1-134.

(e) The juvenile court that committed the delinquent child to the department retains jurisdiction to determine allegations of violation of home placement supervision. Such court shall schedule a hearing within seven (7) days of the time the petition is filed alleging a violation of home placement supervision

and cause written notice to be served on the child, the child's parent or parents, guardian, or other custodian, and the department's designee a reasonable time before the hearing. The written notice shall contain a copy of the petition and any other written report or statement detailing the violation or violations as well as the time, place, and purpose of the hearing. At the hearing, the court shall allow the child to be heard in person and to present witnesses or documentary evidence. The child shall also have the right to confront and cross-examine witnesses.

(f)(1) If the court finds that no violation has occurred, the child shall be allowed to resume the former conditions of home placement.

(2) If the court finds that a violation occurred because the child has been adjudicated for a new offense eligible for commitment to the department under § 37-1-131(a)(4), the court may order that the child be re-committed to the department or utilize any other disposition option permitted by law. Such order shall contain the reasons relied on for terminating the home placement. Upon any such termination and commitment to the department, the child may be placed as the commissioner or the commissioner's designee may direct.

(3)(A) If the court finds that a violation occurred but the child has not been adjudicated for a new offense that is eligible for commitment to the department, the court may modify conditions of home placement consistent with the results of the previously administered validated risk and needs assessment, including ordering a transfer or grant pursuant to § 37-1-131(a)(1), but shall not order that the child be re-committed to the department or otherwise remove the child from the child's home, including the home of a parent, guardian, or other legal custodian, unless the court finds by clear and convincing evidence that the child is in imminent risk of danger to the child's health or safety and needs specific treatment or services that are available only if the child is placed in the custody of the department.

(B) A child placed in the custody of the department under this subdivision (f)(3) shall remain in custody so long as necessary to complete the treatment or services, which shall be evidence-based and provided by a qualified provider, but shall remain in custody no longer than six (6) months; provided, that the court may order that the child remain in custody for up to an additional six (6) month period if the court finds after a hearing or stipulation that:

(i) The child needs treatment or services that are available only if the child is in custody; and

(ii) The treatment or services the child needs are evidence-based and will be provided by a qualified provider.

(4) The child may appeal the disposition of the court as provided in § 37-1-159.

(g)(1) The commissioner or the commissioner's designee may discharge a child placed on state probation pursuant to § 37-1-131(a)(2)(A) or under home placement supervision status by the department after legal custody ends pursuant to subdivision (c)(1)(C) and thereby terminate supervision of the child by the department. Notification of discharge of a child shall be made in writing to the committing court at least fifteen (15) days prior to the proposed discharge. Unless the committing court makes an objection in writing to the commissioner or the commissioner's designee or sets a hearing

within the fifteen-day period with such hearing to be held at the earliest possible date, the court shall be considered to have assented to the discharge from home placement supervision status of the department or from state probation, and such supervision by the department shall terminate.

(2) Upon receiving the written objection from the committing court, the commissioner or the commissioner's designee shall review the child's file and within fifteen (15) days of receipt of such objection may file a motion for a hearing. The court shall hold such hearing within thirty (30) days of the motion filing. A written decision will be rendered within ten (10) days of that hearing. If the department does not concur with the hearing decision, it shall notify the executive committee of the Tennessee council of juvenile and family court judges which shall appoint a panel of three (3) juvenile or family court judges to review the commissioner's final decision. Such three-judge panel will hear and resolve, by a majority vote, the controversy within thirty (30) days of the filing of the commissioner's request. The committing judge shall not be a member of the three-judge panel. The determination of the three-judge panel shall be final.

(3) In the event the juvenile offender is a person described in subdivision (a)(1)(B) and is given a determinate commitment, and the commissioner or the commissioner's designee is of the opinion that the juvenile offender is a fit subject for discharge, the commissioner or the commissioner's designee shall request a hearing before the judge of the juvenile court in which the original commitment occurred. The request shall state the reasons for recommending the discharge and shall make specific recommendations as to where the child will be placed. A copy of the request for a hearing shall be supplied to the district attorney general. If, on review of the record, the court is of the opinion that the request is well taken and the district attorney general has no objection, the judge may order the placement without a hearing. Otherwise, the court shall schedule a hearing within fifteen (15) days of the receipt of the request for hearing. At the hearing, the department, the juvenile offender and the state shall be given an opportunity to be heard in support of or in opposition to the proposed discharge and all of the parties may subpoena witnesses to testify on any issue raised by the proposed discharge. The court may make such orders pertaining to the continued commitment or discharge as the court determines are justified under the proof produced at the hearing. The court's decision shall be appealable under the provisions of § 37-1-302.

(h)(1) Any juvenile offender who is given a determinate commitment shall be eligible to receive time credits toward the determinate sentence imposed. Such time credits shall be awarded for good institutional behavior or satisfactory performance, or both, within institutional programs. Notwithstanding any other law to the contrary, awarded time credits shall operate to reduce the time a juvenile offender must serve in the department on the determinate sentence.

(2) Each juvenile offender who exhibits good institutional behavior or exhibits satisfactory performance, or both, within a program may be awarded time credits toward the sentence imposed, varying between one (1) day and sixteen (16) days for each month served, with not more than eight (8) days for each month served for good institutional behavior and not more than eight (8) days for each month served for satisfactory program performance in accordance with criteria established by the department. No

juvenile offender shall have the right to any such time credits nor shall any juvenile offender have the right to participate in any particular program and may be transferred from one (1) program to another without cause.

(3) Such sentence credits shall not be earned or credited automatically, but rather shall be awarded on a monthly basis to a juvenile offender at the discretion of the responsible superintendent in accordance with the criteria established by the department, and only after receipt by the superintendent of written documentation evidencing the juvenile offender's good institutional behavior or satisfactory program performance, or both.

(4) Such sentence credits may not be awarded for a period of less than one (1) calendar month or for any month in which a juvenile offender commits a major violation of which such juvenile offender is found guilty. No sentence credits for good institutional behavior may be awarded for any month in which a juvenile offender commits any disciplinary violation of which such juvenile offender is found guilty.

(5) A juvenile offender may be deprived of those sentence credits previously awarded pursuant to this subsection (h) only for the commission of any major infraction designated by the department as a major violation, or refusal to participate in a program.

(6) All determinately sentenced juvenile offenders, including those juveniles who are currently serving their sentences, are eligible for the sentence reduction credits authorized by this subsection (h). However, sentence reduction credits authorized by this subsection (h) may be awarded only for conduct or performance, or both, from and after July 1, 1987.

37-1-146. Juvenile traffic offenders.

(a) All cases of alleged traffic violations by children coming within this part shall be heard and disposed of upon a traffic ticket or citation signed by a law enforcement officer that describes in general terms the nature of the violation. Such cases may be disposed of through informal adjustment, pretrial diversion, or judicial diversion; in any case, however, the child or the child's parents may request and shall be granted a hearing before the judge.

(b) If the court finds that the child violated a traffic law or ordinance, the court may adjudicate the child to be a traffic violator, and the court may make one (1) or any combination of the following decisions:

(1) Suspend and hold the child's driver license for a specified or indefinite time;

(2) Limit the child's driving privileges as an order of the court;

(3) Order the child to attend traffic school, if available, or to receive driving instructions;

(4) Impose a fine of not more than fifty dollars (\$50.00) against the child's parent or legal guardian;

(5) Perform community service work in lieu of a fine; or

(6) Place the child on probation pursuant to § 37-1-131(a)(2).

(c) In any case or class of cases, the judge of any juvenile court may waive jurisdiction of traffic violators who are sixteen (16) years of age or older, and such cases shall be heard by the court or courts having jurisdiction of adult traffic violations, or the child's parent or legal guardian may pay the stipulated fine to a traffic bureau.

37-1-153. Court files and records — Inspection limited — Exceptions for certain violent offenders — Confidentiality — Expunction.

(a) Except in cases arising under § 37-1-146, all files and records of the court in a proceeding under this part are open to inspection only by:

- (1) The judge, officers and professional staff of the court;
- (2) The parties to the proceeding and their counsel and representatives;
- (3) A public or private agency or institution providing supervision or having custody of the child under order of the court;
- (4) A court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to the proceeding in juvenile court; and
- (5) With permission of the court, any other person or agency or institution having a legitimate interest in the proceeding or in the work of the court.

(b) Notwithstanding subsection (a), petitions and orders of the court in a delinquency proceeding under this part shall be opened to public inspection and their content subject to disclosure to the public if:

- (1) The juvenile is fourteen (14) or more years of age at the time of the alleged act; and
- (2) The conduct constituting the delinquent act, if committed by an adult, would constitute first degree murder, second degree murder, rape, aggravated rape, aggravated sexual battery, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping or especially aggravated kidnapping.

(c) Notwithstanding the provisions of this section, if a court file or record contains any documents other than petitions and orders, including, but not limited to, a medical report, psychological evaluation or any other document, such document or record shall remain confidential.

(d)(1) Except as otherwise permitted in this section, it is an offense for a person to intentionally disclose or disseminate to the public the files and records of the juvenile court, including the child's name and address.

(2) A violation of this subsection (d) shall be punished as criminal contempt of court as otherwise authorized by law.

(e) Notwithstanding other provisions of this section, where notice is required under § 49-6-3051, an abstract of the appropriate adjudication contained in the court file or record shall be made and provided to the parent, guardian, or other custodian of the juvenile, including the department, and this abstract shall be presented to the school in which the juvenile is, or may be, enrolled, in compliance with § 49-6-3051.

(f)(1) Notwithstanding any law to the contrary, any person who is tried and adjudicated delinquent or unruly by a juvenile court may subsequently file a motion for expunction of all court files and the juvenile records. The court may order all or any portion of the requested expunction if, by clear and convincing evidence, the court finds that the movant:

- (A)(i) Is currently seventeen (17) years of age or older;
- (ii) Is at least one (1) year removed from the person's most recent delinquency or unruly adjudication;
- (iii) Has never been convicted of a criminal offense as an adult, has never been convicted of a criminal offense following transfer from

juvenile court pursuant to § 37-1-134, and has never been convicted of a sexual offense as defined in § 40-39-202, whether in juvenile court, following transfer from juvenile court pursuant to § 37-1-134, or as an adult; and

(iv) Does not have an adjudication of delinquency for a violent juvenile sexual offense as defined in § 40-39-202;

(B) Has maintained a consistent and exemplary pattern of responsible, productive and civic-minded conduct for one (1) or more years immediately preceding the filing of the expunction motion; or

(C) Has made such an adjustment of circumstances that the court, in its discretion, believes that expunction serves the best interest of the child and the community.

(2) Nothing in this subsection (f) shall be construed to apply to any law enforcement records, files, fingerprints or photographs pertaining to any delinquency or unruly adjudication.

(3) In any case in which there is successful completion of an informal adjustment without adjudication under § 37-1-110, the juvenile records shall be expunged by the juvenile court after one (1) year, upon the filing of a motion for expunction and without cost to the child. The court shall inform the child, at the time of the informal adjustment, of the need to file the motion for expunction after a year of successful completion of an informal adjustment and provide the child with a model expunction motion prepared by the administrative office of the courts. The administrative office of the courts shall create a motion that can be completed by a child and shall be circulated to all juvenile court clerks. All juvenile court clerks shall make this model expunction motion accessible to all movants.

(4) In any case in which there is a successful completion of a pretrial diversion pursuant to § 37-1-110, the juvenile record shall be expunged by the juvenile court after one (1) year, upon the filing of a motion for expunction and without cost to the child. The court shall inform the child, at the time of the pretrial diversion, of the need to file the motion for expunction after a year of successful completion of the pretrial diversion and provide the child with a model expunction motion prepared by the administrative office of the courts. All juvenile court clerks shall make this model expunction motion accessible to all movants.

(5) In any case in which there is a successful completion of a judicial diversion pursuant to § 37-1-129, the juvenile record shall be expunged by the juvenile court after one (1) year, upon the filing of a motion for expunction and without cost to the child. The court shall inform the child, at the time of the judicial diversion, of the need to file the motion for expunction after a year of successful completion of the judicial diversion and provide the child with a model expunction motion prepared by the administrative office of the courts. All juvenile court clerks shall make this model expunction motion accessible to all movants.

(6) In any case that is dismissed, excluding a case dismissed after successful completion of an informal adjustment, pretrial diversion, or judicial diversion, the juvenile record shall be expunged by the juvenile court as a part of the court's order of dismissal, without the filing of a pleading for expunction, and at no cost to the child.

(7) A motion for expunction may be filed prior to the one-year period outlined in subdivisions (f)(3), (f)(4), and (f)(5). If the motion is filed, the court

may order all or any portion of the requested expunction if the court finds by clear and convincing evidence that the movant has successfully completed the informal adjustment or diversion and has made such an adjustment of circumstances that the court, in its discretion, determines that expunction serves the best interest of the child and the community.

(8) In any case in which a child's juvenile record contains convictions solely for unruly adjudications or delinquency adjudications for offenses that would be misdemeanors if committed by an adult, the juvenile court shall expunge all court files and records after one (1) year from the child's completion of and discharge from any probation or conditions of supervision, upon the filing of a motion by the child. The court shall inform the child, at the time of adjudication, of the need to file a motion to expunge after a year from the successful completion of probation and provide the child with a model expunction motion prepared by the administrative office of the courts. The administrative office of the courts shall create a motion that can be completed by a child and shall circulate the motion to all juvenile court clerks. All juvenile court clerks shall make this model expunction motion accessible to all children.

(9) The order of expunction, the original delinquent or unruly petition, and the order of adjudication and disposition under subdivisions (f)(1)-(8) shall be sealed and maintained by the clerk of the court in a locked file cabinet and kept separate from all other records. In courts that maintain a case management system capable of expunging a record and only allowing access to the system administrator, paper copies need not be maintained. The sealed orders and petition shall not be released to anyone except at the written request of the person whose records are expunged or in response to an order of a court with proper jurisdiction. Any person whose records are expunged under subdivisions (f)(1)-(8) shall be restored to the status that the person occupied before arrest, citation, the filing of a juvenile petition, or referral. Once a person's juvenile record is expunged, the person shall not be held criminally liable under any provision of state law to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such record or arrest in response to any inquiry made of the person for any purpose.

(10) For purposes of this subsection (f), a juvenile record includes all documents, reports, and information received, kept, or maintained in any form, including electronic, by the juvenile court clerk or juvenile court staff relating to a delinquency or unruly case, with the exception of assessment reports under § 37-1-136.

(11) The court shall inform the child, at the time of adjudication, of the need to file a motion to expunge the child's juvenile record. The administrative office of the courts shall create a motion that can be completed by a child and shall be circulated to all juvenile court clerks. All juvenile court clerks shall make this model expunction motion accessible to all children.

(12) The court may order all or any portion of a juvenile's court files and juvenile records expunged if:

(A) The juvenile is tried and adjudicated delinquent or unruly by a juvenile court for conduct that would constitute the offense of prostitution under § 39-13-513 or aggravated prostitution under § 39-13-516 if committed by an adult;

(B) The court finds that the conduct upon which the adjudication is based was found to have occurred as a result of the person being a victim

478

of human trafficking under § 39-13-314; and

(C) The juvenile has filed a motion for expunction of all court files and juvenile records.

37-1-159. Appeals.

(a) The juvenile court shall be a court of record; and any appeal from any final order or judgment in a delinquency proceeding, filed under this chapter, except a proceeding pursuant to § 37-1-134, may be made to the criminal court or court having criminal jurisdiction that shall hear the testimony of witnesses and try the case de novo. However, if the child pleads guilty or no contest in a delinquency or unruly proceeding, the child waives the right to appeal the adjudication. If the plea includes an agreement as to disposition, the child also waives the right to appeal the disposition. Any appeal from any final order or judgment in an unruly child proceeding or dependent and neglect proceeding, filed under this chapter, may be made to the circuit court that shall hear the testimony of witnesses and try the case de novo. The appeal shall be perfected within ten (10) days, excluding nonjudicial days, following the entry of the juvenile court's order. If a hearing before a judge of a matter heard by a magistrate is not requested or provided pursuant to § 37-1-107, the date of the expiration of the time within which to request the hearing shall be the date of disposition for appeal purposes, and the parties and their attorneys shall be so notified by the magistrate. If there is a rehearing by the judge, the appeal period shall commence the day after the order of disposition is entered. All parties to the juvenile court proceeding shall be parties to the de novo appeal.

(b) An appeal does not suspend the order of the juvenile court, nor does it release the child from the custody of that court or of that person, institution or agency to whose care the child has been committed. Pending the hearing, the criminal court or circuit court may make the same temporary disposition of the child as is vested in juvenile courts; provided, that until the criminal court or circuit court has entered an order for temporary disposition, the order of the juvenile court shall remain in effect. A juvenile court shall retain jurisdiction to the extent needed to complete any reviews or permanency hearings for children in foster care as may be mandated by federal or state law.

(c) When an appeal has been perfected, the juvenile court shall cause the entire record in the case, including the juvenile court's findings and written reports from probation officers, professional court employees or professional consultants, to be taken forthwith to the criminal court or circuit court whose duty it is, either in term or in vacation, to set the case for an early hearing. When an appeal is taken from a juvenile court's decision that involves the removal of a child or children from the custody of their natural or legal parents or guardian or from the department of children's services, or when the decision appealed involves the deprivation of a child's liberty as the result of a finding that such child engaged in criminal activity, such hearing shall be held within forty-five (45) days of receipt of the findings and reports. In its order, the criminal court or circuit court shall remand the case to the juvenile court for enforcement of the judgment rendered by the criminal court or circuit court. Appeals from an order of the criminal court or circuit court pursuant to this subsection (c) may be carried to the court of appeals as provided by law.

(d) There is no civil or interlocutory appeal from a juvenile court's disposition pursuant to § 37-1-134. If and only if a nonlawyer judge presides at the

transfer hearing in juvenile court, then the criminal court, upon motion of the child filed within ten (10) days of the juvenile court order, excluding nonjudicial days, shall hold a hearing as expeditiously as possible to determine whether it will accept jurisdiction over the child; provided, that if no such motion is filed with the criminal court within the ten-day period, excluding nonjudicial days, such child shall be subject to indictment, presentment or information for the offense charged and thus subject to trial as an adult. At this hearing, which is de novo, the criminal court shall consider:

(1) Any written reports from professional court employees, professional consultants as well as the testimony of any witnesses; and

(2) Those issues considered by the juvenile court pursuant to § 37-1-134(a) and (b).

(e) Following a hearing held pursuant to subsection (d), the criminal court may:

(1) Remand the child to the jurisdiction of the juvenile court for further proceedings and disposition pursuant to § 37-1-131, such remand order reciting in detail the court's findings of fact and conclusions of law; or

(2) Enter an order certifying that it has taken jurisdiction over the child. This order shall recite, in detail, the court's finding of fact and conclusions of law. Following the order, the child shall be subject to indictment, presentment or information for the offenses charged. The criminal court judge who conducted the hearing to accept jurisdiction shall not thereby be rendered disqualified to preside at the criminal trial on the merits.

(f) Appeals from an order of the criminal court pursuant to subsection (e) may be carried to the court of criminal appeals in the manner provided by the Tennessee Rules of Appellate Procedure only following a conviction on the merits of the charge. This is the exclusive method of appeal from a finding that the criminal court accepts jurisdiction. The state may appeal to the court of criminal appeals a finding that the child be remanded to the juvenile court upon the ground of abuse of discretion. Pending the appeal by the state, the criminal court shall make a determination of whether or not the child shall be released on the child's own recognizance, or on bond, or held in the custodial care of the sheriff of the county.

(g) Appeals in all other civil matters heard by the juvenile court shall be governed by the Tennessee Rules of Appellate Procedure.

37-1-182. Juvenile records task force.

(a)(1) There is established a task force on the submission of juvenile fingerprints and reporting of juvenile court dispositions, which shall be named the juvenile records task force.

(2) The task force shall have the following members:

(A) The director of the Tennessee bureau of investigation (TBI) or the director's designee, who shall be a member of the director's staff;

(B) A juvenile court judge or magistrate from each grand division of the state, who shall be appointed by the director of the administrative office of the courts;

(C) A clerk or deputy clerk whose primary duties include the maintenance of juvenile court records, to be appointed by the president of the state court clerks' conference;

(D) The commissioner of children's services or the commissioner's

designee;

(E) The attorney general and reporter or attorney general and reporter's designee, who shall be an ex officio member of the task force;

(F) The chair of the judiciary committee of the senate and the chair of the committee of the house of representatives having jurisdiction over children and families or their designees, who shall be members of the task force;

(G) The executive director of the Tennessee commission on children and youth or the executive director's designee.

(3) Appointments shall be made within sixty (60) days after July 1, 2007. The governor shall designate the chair of the task force, who shall set the date of the first meeting. At the organizational meeting, a secretary shall be elected from the task force's membership.

(b)(1) The task force is authorized to request and receive assistance from any department, agency or entity of state government, upon request from the chair.

(2) Members of the task force are volunteers and shall serve without pay, except that nonlegislative members may be reimbursed for travel expenses in accordance with travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter. Members of the general assembly shall be compensated in accordance with the provisions of § 3-1-106.

(c) The task force is directed to assess and examine:

(1) The process of the submission of juvenile fingerprints to the TBI and to the federal bureau of investigation;

(2) The maintenance of juvenile fingerprint cards;

(3) The reporting of dispositions of juvenile offenses;

(4) The disclosure or nondisclosure of juvenile offenses for employment or volunteer purposes;

(5) Whether a juvenile offender repository is needed;

(6) Whether any of the statutes referring to juvenile records and/or juvenile fingerprints are in direct conflict with other statutes and, if so, to determine how to correct any ambiguities; and

(7) Any other relevant issues that concern juvenile fingerprint submissions, dispositions, and disclosures of juvenile records.

(d) The task force is directed to submit a report of its findings and recommendations, including any suggested legislation, to the general assembly and the governor no later than February 15, 2008.

37-1-186. Notification of resources and funding for relative caregivers — Distribution of information.

(a) As used in this section, "relative caregiver" means a person within a first, second, or third degree of relationship to the parent or step-parent of a child who may be related through blood, marriage, or adoption.

(b) Any court that issues an order granting custody or guardianship of a child to a person who qualifies as a relative caregiver shall notify the relative caregiver that resources and funding for relative caregivers may be available through programs administered by the department.

(c) The department shall distribute information on available relative caregiver resources to the administrative office of the courts, and the administra-

tive office of the courts shall distribute the information to each court within the state that issues orders regarding child custody or guardianship. For purposes of satisfying the requirements of this subsection (c), the distribution of resource information may be accomplished by electronic means.

37-1-406. Availability for receiving reports — Commencement of investigations — Examination and observation of child — Reports — Services provided — Investigators — Interpreter for child who is deaf or hard of hearing.

(a) The department shall be capable of receiving and investigating reports of child abuse twenty-four (24) hours a day, seven (7) days a week. The county office shall make a thorough investigation promptly after receiving either an oral or written report of harm. All representatives of the child protective services agency shall, at the initial time of contact with the individual who is subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual consistent with laws protecting the rights of the informant. If it appears that the immediate safety or well being of a child is endangered, that the family may flee or the child will be unavailable, or that the facts otherwise warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In the event the report involves child sexual abuse, the department shall follow the procedures outlined in subsection (b).

(b) In cases involving child sexual abuse, the investigation shall be conducted by a child protective investigation team as defined in § 37-1-602 relative to child sexual abuse pursuant to the provisions of § 37-1-606. In the event an immediate investigation has been initiated, the department shall notify the child protection team as soon as possible and the team shall proceed with the investigation in accordance with the provisions of Acts 1985, ch. 478. Other cases of child abuse may be investigated by the team in the discretion of each individual team.

(c) All private schools, as defined by § 49-6-3001, church-related schools, as defined by § 49-50-801, and state, county and local agencies shall give the team access to records in their custody pertaining to the child and shall otherwise cooperate fully with the investigation.

(d) The investigation shall include:

(1) The nature, extent and cause of the harm, including a determination of whether there exists a threat of harm, and the nature and extent of any present or prior injuries or abuse;

(2) The identity of the person responsible for it;

(3) The nature and extent of any previous allegations, complaints, or petitions of abuse or dependency and neglect against the parent or person responsible for the care of the child;

(4) The names and conditions of the other children in the home;

(5) An evaluation of the parents or persons responsible for the care of the child, the home environment, and the relationship of each child to the parents or persons responsible for such child's care;

(6) The identity of any other persons in the same household;

(7) The identity of any other children in the care of any adult residing in the household; and

(8) All other pertinent data.

(e) The investigation shall include a visit to the child's home, an interview

with and the physical observation of the child, an interview with and the physical observation of any other children in the child's home, and an interview with the parent or parents or other custodian of the child and any other persons in the child's home. If the investigator deems it necessary, the investigation shall also include medical, psychological or psychiatric examinations of the child and any other children in the child's home or under the care of any person alleged to have permitted or caused abuse, neglect or sexual abuse to the child. If the investigator determines, based on a visit to the child's home, observation of and interview with the subject child, and interview with other persons in the child's home, that the report of harm was wholly without substance, the investigator may determine that physical and psychological examinations of the subject child are unnecessary, in which case they will not be required. If admission to the home, school, or any place where the child may be, or permission of the parents or persons responsible for the child's care for the physical and psychological or psychiatric examinations cannot be obtained, the juvenile court, upon cause shown, shall order the parents or person responsible for the care of the child or the person in charge of any place where the child may be, to allow entrance for the interview, examination, and investigation. If the report of harm indicates that the abuse, neglect or sexual abuse occurred in a place other than the child's home, then, in the discretion of the investigator, the investigation may include a visit to the location where the incident occurred or a personal interview with the child and the parents or other custodians in another location instead of a visit to the child's home.

(f) Any person required to investigate cases of child abuse may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report and of any objects or conditions in the child's home or surroundings that could have caused or contributed to the harm to the child. If the nature of the child's injuries indicate a need for immediate medical examination or treatment, the investigator may take or cause the child to be taken for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents, legal guardian or legal custodian. Any licensed physician who, based on information furnished by the investigator, the parents or other persons having knowledge of the situation, or the child, or on personal observation of the child, suspects that an injury was the result of child abuse, may authorize appropriate examinations to be performed on the child without the consent of the child's parent, legal guardian or legal custodian.

(g) At the initial investigation of child abuse and at any subsequent investigation as deemed appropriate by the investigator, audio or videotape recording may be taken of the traumatized victim. Such tape shall be admissible as evidence in cases of child sexual abuse if it meets the standards established in title 24 for the use of recorded statements. Regardless of whether such recording is used in evidence, it shall be made available for use as provided in § 37-1-405(b)(2).

(h) The investigator shall interview the child outside the presence of the parent(s) or other persons allegedly responsible for the harm and, wherever possible, shall interview the child in a neutral setting other than the location where the alleged abuse occurred.

(i) No later than sixty (60) days after receiving the initial report, the department or team in cases of child sexual abuse or the department in all other cases shall determine whether the reported abuse was indicated or

unfounded and report its findings to the department's abuse registry. Each member of the team shall be provided with a copy of the report in any case investigated by the team. In any case investigated solely by the department, the department shall make a complete written investigation report, including its recommendation, to the juvenile court. The district attorney general shall also be provided a copy of any report in all cases where the investigation determines that the report was indicated. Further proceedings shall be conducted pursuant to part 1 of this chapter, as appropriate.

(j) If the department or team in cases of child sexual abuse or the department in all other cases determines that the protection of the child so requires, the department shall provide or arrange for services necessary to prevent further abuse, to safeguard and enhance the welfare of children, and to preserve family life. Such services may include provision for protective shelter, to include room and board; medical and remedial care; day care; homemaker; caretaker; transportation; counseling and therapy; training courses for the parents or legal guardian; and arranging for the provision of other appropriate services. All such services shall be provided when appropriate within the limits of available resources. These services shall first be offered for the voluntary acceptance by the parent or other person responsible for the care of the child, unless immediate removal is needed to protect the child. At any point if the department or team in cases of child sexual abuse or the department in all other cases deems that the child's need for protection so requires, it may proceed with appropriate action under part 1 of this chapter.

(k) If the investigator, as a result of the investigation, determines that there is cause to classify the report of severe abuse as indicated rather than unfounded, the team in cases of child sexual abuse or the department in all other cases may recommend that criminal charges be filed against the alleged offender. Any interested person who has information regarding the offenses may forward a statement to the district attorney general as to whether such person believes prosecution is justified and appropriate. Within fifteen (15) days of the completion of the district attorney general's investigation of a report of severe abuse, the district attorney general shall advise the department or team whether or not prosecution is justified and appropriate, in the district attorney general's opinion, in view of the circumstances of the specific case.

(l) The legislative intent of this section is to protect the legal rights of the family in an investigation and to ensure that no activity occurs that compromises the department's child abuse investigation or any ongoing concurrent criminal investigation conducted by law enforcement.

(m)(1) In jurisdictions that have implemented the multi-level response system, in addition to other investigative procedures under this section, local law enforcement officers and district attorneys general having jurisdiction shall assist the department, on request in writing, if the department determines that it is likely that the case may result in criminal prosecution or that a child protective services worker may be at risk of harm while investigating the following reports of harm:

(A) Any report of harm alleging facts that, if proved, would constitute severe child abuse as defined in § 37-1-102;

(B) Any report of harm alleging facts that, if proved, would constitute child sexual abuse as defined in § 37-1-602;

(C) Any report of harm alleging facts that, if proved, would constitute

the following physical injuries to a child:

- (i) Head trauma;
- (ii) Broken bones;
- (iii) Inflicted burns;
- (iv) Organic functional impairment, as defined by the department;
- (v) Broken skin;
- (vi) Shaken baby syndrome;
- (vii) Defensive injuries;
- (viii) Injuries related to physical confinement; or
- (ix) Infants exposed to illegal narcotics, including methamphetamine;

(D) Any report of harm alleging facts that, if proved, would constitute the following types of neglect:

- (i) A child left without supervision in a dangerous environment;
- (ii) Lack of food or nurturance resulting in a failure to thrive;
- (iii) Abandonment of a child under the age of eight (8);
- (iv) Lack of care that results in a life-threatening condition or hospitalization; or
- (v) Inaction of the parent resulting in serious physical injury;

(E) Any report of harm alleging facts that would result in the removal of a child from the home pursuant to department policy or rule;

(F) Any report of harm alleging facts that involve a caretaker at any institution, including, but not limited to, any licensed day care center, public or private school, or hospital; or

(G) Any report of harm alleging facts that, if proved, would constitute any other class of injury identified by the department through policy or rule as necessitating investigation.

(2) If a local law enforcement agency or district attorney general assisting the department under this subsection (m) decides not to proceed with prosecution or terminates prosecution after undertaking it, the agency or district attorney general shall make a written report on a standardized check-off form developed by the department and the Tennessee district attorneys general conference to the department and the juvenile court on the basis for its decision. The department shall compile such reports and present them to the judiciary committee of the senate and the committee of the house of representatives having oversight over children and families as part of its report pursuant to the multi-level response system for children and families, compiled in chapter 5, part 6 of this title. The department shall make quarterly reports to local law enforcement agencies and district attorneys general as to the number and types of cases the department is handling in their jurisdictions on the basis of reports of harm or sexual abuse or of children at risk of being so harmed or sexually abused.

(n) If the report of child abuse alleges physical abuse, it shall be in the best interest of the child that the child be referred to a child advocacy center or that the investigation be conducted by a child protective services investigator who is adequately trained in investigating physical abuse reports. Under no circumstances shall the investigation be performed by a probation officer previously assigned to the child.

(o)(1) Any investigator or law enforcement officer who is investigating a possible domestic abuse or child abuse incident that may have involved or occurred in the presence of a child who is deaf or hard of hearing shall not use the child's parent or family member as an interpreter. The investigator or officer shall instead communicate with the child who is deaf or hard of

hearing using an interpreter trained as a sign language interpreter.

(2) The interpreter may interpret from a remote location by communicating with the child using video remote interpreting. If the child is unable to understand, then a live, qualified interpreter from the list identified in subdivision (o)(3) shall be used. The communication shall occur outside the presence of the child's parent, other family members, or potential abusers.

(3) Law enforcement agencies shall maintain a list of interpreters developed from a list provided by the Tennessee council for the deaf, deaf-blind, and hard of hearing.

37-1-412. Violation of duty to report — Power of juvenile court — Penalty.

(a)(1) Any person who knowingly fails to make a report required by § 37-1-403 commits an offense.

(2)(A) A violation of subdivision (a)(1) is a Class A misdemeanor.

(B) A second or subsequent violation of subdivision (a)(1) is a Class E felony.

(3) Any person who intentionally fails to make a report required by § 37-1-403 commits a Class E felony.

(b)(1) A juvenile court having reasonable cause to believe that a person is guilty of violating this section may have the person brought before the court either by summons or by warrant. If the defendant pleads not guilty, the juvenile court judge shall bind the defendant over to the grand jury.

(2) If the defendant pleads guilty to a first offense under subdivision (a)(1) and waives, in writing, indictment, presentment, grand jury investigation, and trial by jury, the juvenile court judge shall sentence the defendant with a fine not to exceed two thousand five hundred dollars (\$2,500).

37-1-603. Comprehensive state plan.

(a) The department shall develop a state plan that encompasses and complies with the scope of all provisions of this part for the detection, intervention, prevention and treatment of child sexual abuse. The department of education and the state board of education shall participate and fully cooperate in the development of the state plan. Furthermore, appropriate state and local agencies and organizations shall be provided an opportunity to participate in the development of the state plan. Appropriate groups and organizations shall include, but not be limited to, community mental health centers; the juvenile courts; the school boards of the local school districts; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multi-disciplinary child protection teams; child care centers; and law enforcement agencies. The state plan to be provided to the general assembly, the appropriate committees and the governor shall include, as a minimum, the information required of the various groups in subsection (b).

(b) The development of the comprehensive state plan shall be accomplished in the following manner:

(1) The department of children's services shall establish a task force composed of representatives from the department of mental health and

substance abuse services, department of intellectual and developmental disabilities, the commission on children and youth created by § 37-3-102, a child abuse agency as defined in § 37-5-501, a treatment resource as defined in § 33-1-101, and a local child service agency. Representatives of the departments of children's services, education, health, the Tennessee bureau of investigation, district attorneys general conference, Tennessee council of juvenile and family court judges, and local law enforcement agencies shall serve as ex officio members of the task force. The task force shall be responsible for:

(A) Developing a plan of action for better coordination and integration of the goals, activities, and funding of the department pertaining to the detection, intervention, prevention, and treatment of child sexual abuse in order to maximize staff and resources, including the effective utilization of licensure personnel in determining whether children are properly cared for and protected by the child care agencies licensed by the department of children's services or human services. The department shall develop ways not only to inform and instruct all personnel in the child care agencies in the detection, intervention, prevention and treatment of child sexual abuse, but shall develop ways for licensure personnel at least annually to require that all such agencies present a prevention program to the children enrolled in and cared for by the agency. Licensing staff shall provide training to such agencies if needed to assist them in presenting such a program and shall review and approve the materials to be presented. The department shall formulate an effective and efficient method for updating files of victims of child sexual abuse. The plan for accomplishing this end shall be included in the comprehensive state plan;

(B) Preparing the state plan for submission to the members of the general assembly and the governor. Such preparation shall include the cooperative plans as provided in this section and the plan of action for coordination and integration of departmental activities into one (1) comprehensive plan. The comprehensive plan shall include a section reflecting general conditions and needs, an analysis of variations based on population or geographic areas, identified problems, and recommendations for change; and

(C) Working with the specified agency in fulfilling the requirements of subdivisions (b)(2), (3), (4), (5) and (6);

(2) The department of education and the state board of education and the department of children's services shall work together in developing ways to inform and instruct appropriate school personnel and children in all school districts in the detection, intervention, prevention and treatment of child sexual abuse and in the proper action that should be taken in a suspected case of child sexual abuse. The plan for accomplishing this end shall be included in the comprehensive state plan;

(3) The departments of education and children's services, and the state board of education, shall work together on the enhancement or adaptation of curriculum materials to assist instructional personnel in providing instruction through a multi-disciplinary approach on the detection, intervention, prevention and treatment of child sexual abuse, including such abuse that may occur in the home, including, but not limited to, instruction provided as part of a family life curriculum pursuant to § 49-6-1304. The curriculum materials shall be geared toward a sequential program of instruction at progressional levels for kindergarten through grade twelve (K-12). Strate-

gies for utilizing the curriculum shall be included in the comprehensive plan;

(4)(A) The Jerry F. Agee Tennessee Law Enforcement Academy, the Tennessee peace officer standards and training commission, and the department of children's services shall work together in developing ways to inform and instruct appropriate local law enforcement personnel in the detection of child sexual abuse and in the proper action that should be taken in a suspected case of child sexual abuse:

(i) Guidelines shall be prepared establishing a standard procedure that may be followed by police agencies in the investigation of cases involving sexual abuse of children, including police response to, and treatment of, victims of such crimes;

(ii) The course of training leading to the basic certificate issued by the Tennessee peace officer standards and training commission shall include adequate instruction in the procedures described in subdivision (b)(4)(A) and shall be included as a part of the in-service training requirement to be eligible for the salary supplement authorized in § 38-8-111;

(iii) A course of study pursuant to such procedures for the training of specialists in the investigation of child sexual abuse cases shall be implemented by the Jerry F. Agee Tennessee Law Enforcement Training Academy. Officers assigned as investigation specialists for these crimes shall successfully complete their training;

(iv) The peace officers standards and training commission may authorize the certification of officers under this section if the officers have received training meeting the criteria established in subdivision (b)(4)(A) from any other approved training course at sites other than the Jerry F. Agee Tennessee Law Enforcement Training Academy; and

(v) It is the intent of the general assembly to encourage the establishment of child sex crime investigation units in sheriffs' departments and police agencies throughout the state, which units shall include investigating crimes involving sexual abuse of children;

(B) The plan for accomplishing this end shall be included in the comprehensive state plan;

(5) The department of children's services shall work with other appropriate public and private agencies to emphasize efforts to educate the general public about the problem of and ways to detect, intervene in, prevent and treat child sexual abuse, and in the proper action that should be taken in a suspected case of child sexual abuse. Such plan shall include a method for publicizing and notifying the general public of the resources and agencies available to provide help and services for victimized children and their families. The plan for accomplishing this end shall be included in the comprehensive state plan; and

(6) The department of children's services and the joint task force on children's justice and child sexual abuse shall work together in developing a mechanism to inform and instruct judges with juvenile, divorce and criminal jurisdiction in the detection, intervention, prevention and treatment of child sexual abuse and in the proper action that should be taken in a known or suspected case of child sexual abuse. The plan for accomplishing this end shall be included in the comprehensive state plan.

(c)(1) All budget requests submitted by the department of children's services, the department of education, or any other agency to the general

assembly for funding of efforts for the detection, intervention, prevention, and treatment of child sexual abuse shall be based on the state comprehensive plan developed pursuant to this section.

(2) The department of children's services shall readdress the plan one (1) year following its initial presentation and at least biennially thereafter, and shall make necessary revisions. No later than January 31, 1987, and no later than January 31 of every uneven year thereafter, such revisions shall be submitted to the government operations committees of both houses of the general assembly and to the governor.

37-1-607. Child protective teams — Investigations — Services.

(a)(1)(A) The department shall coordinate the services of child protective teams. At least one (1) child protective team shall be organized in each county. The district attorney general of each judicial district shall, by January 15 of each year, report to the judiciary committee of the senate and the committee of the house of representatives having oversight over children and families on the status of the teams in the district attorney general's district as required by this section, and the progress of the child protective teams that have been organized in the district attorney general's district. The department shall, with the cooperation of all statutorily authorized members of the child protective team, establish a procedure and format for data collection. The procedure and format developed shall include at a minimum the following information:

(i) The number of reports received for investigation by type (i.e., sexual abuse, serious physical abuse, life-threatening neglect);

(ii) The number of investigations initiated by type;

(iii) The number of final dispositions of cases obtained in the current reporting year by type of disposition as follows:

(a) Unsubstantiated, closed, no service;

(b) Unsubstantiated, referred for non-custodial support services;

(c) Substantiated, closed, no service;

(d) Substantiated, service provided, no prosecution;

(e) Substantiated, service provided, prosecution, acquittal; or

(f) Substantiated, service provided, prosecution, conviction;

(iv) Age, race, gender, and relationship to the victim of perpetrators identified in cases that are included in subdivisions (a)(1)(A)(iii)(c)-(f); and

(v) The type and amount of community-based support received by child protective teams through linkages with other local agencies and organizations and through monetary or in-kind, or both, donations.

(B) Such data shall be reported by January 15 of each year to the judiciary committee of the senate and the committee of the house of representatives having oversight over children and families, along with a progress report on the teams and any recommendations for enhancement of the child sexual abuse plan and program.

(2) Each team shall be composed of one (1) person from the department, one (1) representative from the office of the district attorney general, one (1) juvenile court officer or investigator from a court of competent jurisdiction, and one (1) properly trained law enforcement officer with countywide jurisdiction from the county where the child resides or where the alleged

offense occurred. The team may also include a representative from one (1) of the mental health disciplines. It is in the best interest of the child that, whenever possible, an initial investigation shall not be commenced unless all four (4) disciplines are represented. An initial investigation may, however, be commenced if at least two (2) of the team members are present at the initial investigation. In those geographical areas in which a child advocacy center meets the requirements of § 9-4-213(a) or (b), child advocacy center directors, or their designees, shall be members of the teams under this part and part 4 of this chapter for the purposes of provision of services and functions established by § 9-4-213 or delegated pursuant to that section. In such event, child advocacy center directors, or their designees, may access and generate all necessary information, which shall retain its confidential status, consistent with § 37-1-612.

(3) It is the intent of the general assembly that the child protective investigations be conducted by the team members in a manner that not only protects the child but that also preserves any evidence for future criminal prosecutions. It is essential, therefore, that all phases of the child protective investigation be appropriately conducted and that further investigations, as appropriate, be properly conducted and coordinated.

(b)(1) The department shall convene the appropriate team when a report of child sexual abuse has been received. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report all suspected or actual cases of child sexual abuse. The role of the teams shall be to conduct child protective investigations of reported child sexual abuse and to support and provide services to sexually abused children upon referral as deemed by the teams to be necessary and appropriate for such children.

(2)(A) For each child sexual abuse report it receives, the department shall immediately notify the child protection investigation team, which shall commence an on-site child protective investigation. The team shall:

(i) Determine the composition of the family or household, including the name, address, age, sex and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents or other persons responsible for the child's welfare; and any other adults in the same household;

(ii) Determine whether there is any indication that any child in the family or household is sexually abused, including a determination of harm or threatened harm to each child; the nature and extent of present or prior injuries, or abuse, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse;

(iii) Determine the immediate and long-term risk to each child if the child remains in the existing home environment; and

(iv) Determine the protective, treatment and ameliorative services necessary to safeguard and ensure the child's well-being and development and, if possible, to preserve and stabilize family life.

(B) The team shall seek to interview the child in a neutral setting, other than where the alleged abuse occurred, whenever possible.

(3) Immediately upon receipt of a report alleging, or immediately upon learning during the course of an investigation, that:

(A) Child sexual abuse has occurred; or

(B) An observable injury or medically diagnosed internal injury oc-

curred as a result of the sexual abuse; the department shall orally notify the team, the appropriate district attorney general and the appropriate law enforcement agency whose criminal investigations shall be coordinated, whenever possible, with the child protective team investigation. In all cases, the team and the department shall make a full written report to the district attorney general within three (3) days of the oral report. If, as a result of an investigation, there is cause to believe a violation of title 39, chapter 17, part 10 has occurred, an appropriate report shall be filed by the district attorney general requesting an investigation by the Tennessee bureau of investigation. If independent criminal investigations are made, interviews with the victimized child shall be kept to an absolute minimum and, whenever possible, reference to the videotape or tapes made by the child protective teams should be utilized.

(4) In addition to the requirements of this part, the provisions of § 37-1-406 shall apply to any investigation conducted hereunder.

(5) As a result of its investigation, the team may recommend that criminal charges be filed against the alleged offender. Any interested person who has information regarding the offenses described in this subsection (b) may forward a statement to the district attorney general as to whether prosecution is warranted and appropriate. Within fifteen (15) days of the completion of the district attorney general's investigation, the district attorney general shall advise the department and the team whether or not prosecution is justified and appropriate in the district attorney general's opinion in view of the circumstances of the specific case.

(c)(1) The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that the team shall be capable of providing, to the extent funds are specifically appropriated therefor, or by referral shall be capable of obtaining for the protection of the child, include, but are not limited to, the following:

(A) Telephone consultation services in emergencies and in other situations;

(B) Medical evaluation related to the sexual abuse;

(C) Such psychological and psychiatric diagnosis and evaluation services for the child, siblings, parent or parents, guardian or guardians, or other care givers, or any other individual involved in a child sexual abuse case, as a child protection team may determine to be needed;

(D) Short-term psychological treatment. It is the intent of the general assembly that the department provide or refer a child whose case has been validated by the department, and the child's family, for short-term psychological treatment before the department may close its case. Such short-term treatment shall be limited to no more than six (6) months' duration after treatment is initiated, except that the commissioner may authorize such treatment for individual children beyond this limitation if the commissioner deems it appropriate;

(E) Expert medical, psychological and related professional testimony in court cases;

(F) Case staffings to develop, implement and monitor treatment plans for a child whose case has been validated by the department. In all such case staffings, consultations, or staff activities involving a child, at least one (1) member of the team involved in the initial investigation shall continue to monitor the progress and status of the child whenever possible

and within the same geographic area; and

(G) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(2) In all instances where a child protection team is providing or has obtained by referral certain services to sexually abused children, other offices and units of the department shall avoid duplicating the provision of those services.

37-1-615. Violations — Penalties.

(a)(1) Any person required to report known or suspected child sexual abuse who knowingly fails to do so, or who knowingly prevents another person from doing so, commits an offense.

(2)(A) A violation of subdivision (a)(1) is a Class A misdemeanor.

(B) A second or subsequent violation of subdivision (a)(1) is a Class E felony.

(3) Any person required to report known or suspected child sexual abuse who intentionally fails to do so, or who intentionally prevents another person from doing so, commits a Class E felony.

(b) Any person who knowingly and willfully makes public or discloses any confidential information contained in the abuse registry or in the records of any child sexual abuse case, except as provided in this part, commits a Class A misdemeanor.

37-1-902. Legislative intent — Goals of zero to three court programs. [Effective until January 1, 2025.]

(a) The general assembly recognizes that a critical need exists in this state for child and family programs to reduce the incidence of child abuse, neglect, and endangerment, minimize the effects of childhood trauma on small children, and provide stability to parents and children within the state. It is the intent of the general assembly by this part to create an initiative to facilitate the implementation of new and the continuation of existing zero to three court programs.

(b) The goals of the zero to three court programs created under this part include the following:

(1) To reduce time to permanency of children thirty-six (36) months of age or younger by surrounding at-risk families with support services;

(2) To reduce incidences of repeat maltreatment among children thirty-six (36) months of age or younger;

(3) To reduce the long-term and short-term effects of traumatic experiences occurring when a child is thirty-six (36) months of age or younger on a child's brain development;

(4) To promote public safety through these reductions;

(5) To increase the personal, familial, and societal accountability of families; and

(6) To promote effective interaction and the use of resources among both public and private state and local child and family service agencies, state and local mental health agencies, and community agencies. It is the intent of the general assembly that in appropriate circumstances vetted, trained, and approved safe baby court volunteers be utilized to the fullest extent possible.

(c) As used in this part, "zero to three court program" and "safe baby court"

means any court program created within this state that seeks to accomplish the goals stated in subsection (b) and that is established by a judge with jurisdiction over juvenile court matters. Except as provided in § 37-1-906, a safe baby court has the same powers as the court that created it.

37-1-903. Establishment of zero to three court programs and safe baby court programs — Location — Administration. [Effective until January 1, 2025.]

(a)(1) On January 1, 2018, there are established five (5) zero to three court programs throughout this state. These courts shall be in addition to any zero to three court programs already established in the state.

(2) On January 1, 2020, there are established five (5) safe baby courts throughout this state. These courts are in addition to other zero to three court programs and safe baby courts established in this state prior to May 10, 2019. The establishment of additional safe baby courts is authorized as funding permits.

(b)(1) The administrative office of the courts, in consultation with the department of children's services, the department of mental health and substance abuse services, and the council of juvenile and family court judges, shall determine the location of each program.

(2) The department of children's services, in consultation with the administrative office of the courts, the department of mental health and substance abuse services, and the council of juvenile and family court judges shall establish at least one (1) program within each of the three (3) grand divisions and shall seek to serve both rural and urban populations.

(3) The administrative office of the courts, the council of juvenile and family court judges, the department of children's services, and the department of mental health and substance abuse services are authorized to collaborate for the purpose of developing a strategy for safe baby court programs to expand services into adjacent counties where the judges of the juvenile courts of each county agree to share resources and the department of children's services has the staffing and resource capacity to provide coverage of safe baby courts in the adjacent counties.

(c) The department of children's services, in consultation with the administrative office of the courts, council of juvenile and family court judges, and the department of mental health and substance abuse services, shall administer the zero to three court programs by:

(1) Defining, developing, and gathering outcome measures for zero to three court programs relating to the goals stated in § 37-1-902;

(2) Collecting and compiling safe baby court program data, including annual reports from each zero to three court program and safe baby court. The department of children's services shall create and disseminate an annual report to the director of the administrative office of the courts, the commissioner of the department of mental health and substance abuse services, the council of juvenile and family court judges, and the chairs of the judiciary committees of the house of representatives and the senate. The annual report must summarize the results of the programs' operations during the previous calendar year, including data on outcomes achieved in safe baby courts compared to the outcomes achieved by other courts exercising similar jurisdiction, any cost savings associated with the achieve-

ment of the goals stated in § 37-1-902, and program feedback from safe baby court judges. Each zero to three court program and safe baby court established on or before January 1, 2018, shall submit program data and an annual report as described in this subdivision (c)(2) to the department of children's services, the department of mental health and substance abuse services, the administrative office of the courts, and the council of juvenile and family court judges by February 1 of each year. Each safe baby court established on January 1, 2020, shall submit program data and an annual report as described in this subdivision (c)(2) to the department of children's services, the department of mental health and substance abuse services, the administrative office of the courts, and the council of juvenile and family court judges by February 1, 2021, and each following February 1;

(3) Sponsoring and coordinating state zero to three court training for the juvenile court judges and staff who will administer the programs; and

(4) Developing standards of operation, including procedures and protocols, for zero to three court programs prior to the creation, establishment, and commencement of the programs on January 1, 2018.

**37-1-906. Referral of juvenile court matter to safe baby court program.
[Effective until January 1, 2025.]**

A juvenile court matter that meets the safe baby court program criteria may be referred to a safe baby court program at any time during the pendency of the proceeding. If a matter is transferred to a safe baby court program, any permanency plan already in place must be scheduled for a review hearing by the court within thirty (30) days of the transfer to safe baby court.

37-1-907 Application for grants not precluded. [Effective until January 1, 2025.]

This part does not preclude the ability of a safe baby court to apply for and receive matching monetary grants in addition to funds allotted to safe baby court programs from the department of children's services, the department of mental health and substance abuse services, and the administrative office of the courts.

**37-1-908. Termination of participation in safe baby court program.
[Effective until January 1, 2025.]**

A party's participation in a safe baby court program may be terminated at the discretion of the court if the party fails to comply with the program requirements.

37-1-909. Safe baby court advisory committee. [Effective until January 1, 2025.]

To assist in the development of rules and regulations and to ensure that the views of the safe baby court community are appropriately communicated to the commissioner of children's services, the director of the administrative office of the courts, and the commissioner of mental health and substance abuse services, there is created a safe baby court advisory committee. The committee members shall be named by the director of the administrative office of the courts, the commissioner of children's services, and the commissioner of

mental health and substance abuse services. The commissioner of children's services will chair the committee. The committee shall strive to develop non-regulatory strategies to address issues related to the operation of safe baby courts and to facilitate necessary changes. The members of the committee serve as volunteers and shall not be paid or reimbursed for time served as committee members.

37-1-910. Repealer. [Effective until January 1, 2025.]

This part is deleted on January 1, 2025, and is no longer effective on or after such date.

37-2-205. Commitment of dependent and neglected, delinquent or unruly children — Contracts for per diem allowance — Records — Minimum qualifications and standards.

(a) In addition to the dispositional alternatives provided by §§ 37-1-130 — 37-1-132, concerning dependent and neglected, delinquent or unruly children, the juvenile court judge of any county within the provisions of this part is hereby authorized and empowered to commit a child to the custody of such county department of children's services. Upon such commitment by the juvenile court judge, guardianship of the person of such child shall immediately transfer to the director of the county department.

(b) When any child is committed to a county department, the state, from available budgetary funds of any state department through which federal or other funds may be provided by law for the purchase of child care, may contract with the county department to pay a per diem allowance for each child so committed for the period of time each such child is in custody of the county department. The per diem allowance shall be determined by negotiation and contract between the county and state department through which such funds are available.

(c) The director of the county department shall keep or cause to be kept all records and reports required to be kept by a comparable state agency. Such records shall include the quarterly review of each child's treatment, rehabilitation and progress, and the procedures for such review prescribed by the director. Failure of the director to keep or maintain any such records and reports required to be kept by law shall relieve the state from its obligation to pay the county department the per diem allowance for any child upon whom inadequate records have been kept.

(d) The county department shall ensure that services provided to children in its care and facilities provided for that purpose shall meet all minimum qualifications and standards established by contract with the contracting department, but in no event shall such qualifications or standards be less stringent than those mandated by applicable state or federal law or regulation for the children in the care of the department. Failure to meet such qualifications and standards shall entitle the contracting department to withhold funds payable to the county pursuant to the contract. In all cases, the contracting state department shall have the authority to conduct such monitoring and inspection as may be necessary to enforce this provision.

(e) The department of children's services is authorized to enter into an agreement to pay a per diem allowance to a county for each delinquent child placed in a local facility for delinquent children operated under the direction of

the court or other local public authority. As a condition of such payment, the agreement may require that the county pay to the department of children's services a per diem allowance in the same amount for each child committed from the county to the department of children's services. The per diem allowance shall be as agreed upon, but not less than seventy-five percent (75%) of the current actual cost of maintaining a child in a state correctional institution.

(f)(1)(A) In order to enhance communication between the department of children's services and juvenile court judges across the state, the department shall provide to the juvenile court judge(s) for each county a report which includes:

(i) The number of commitments to state custody for dependent and neglected children, unruly children, and delinquent children for the previous twelve-month period by county; and

(ii) The statewide average commitment rate per thousand youth based on the latest county population data as provided by the department of health.

(B) The report shall be provided to judges on a semiannual basis and shall also be made available on the department's web site.

(2) The department may initiate a collaborative planning process at the time a county's commitment rate is believed to be likely to exceed two hundred percent (200%) of the statewide average commitment rate. Upon request of the court, the department shall partner with the court to develop and implement strategies to address any factors contributing to higher commitment rates in such county.

(3) On or before January 31 of each year, the department of children's services shall provide to the judiciary committee of the senate and the committee of the house of representatives having oversight over children and families a report of county commitment data for the previous fiscal year and a description of actions taken as part of the collaborative planning process. The report shall be published as part of the department's annual report required by § 37-5-105(4).

37-2-403. Contents of permanency plan — Statement of responsibilities — Collection of information on biological parents.

(a)(1)(A) Within thirty (30) days of the date of foster care placement, an agency shall prepare a plan for each child in its foster care. Such plan shall include a goal for each child of:

(i) Return of the child to parent;

(ii) Permanent placement of the child with a fit and willing relative or relatives of the child;

(iii) Adoption, giving appropriate consideration to § 36-1-115(g) when applicable;

(iv) Permanent guardianship; or

(v) A planned permanent living arrangement.

(B) Such plans are subject to modification and shall be reevaluated and updated at least annually, except when a long-term agreement has been made in accordance with this part.

(2)(A) The permanency plan for any child in foster care shall include a statement of responsibilities between the parents, the agency and the

caseworker of such agency. Such statements shall include the responsibilities of each party in specific terms and shall be reasonably related to the achievement of the goal specified in subdivision (a)(1). The statement shall include the definitions of “abandonment” and “abandonment of an infant” contained in § 36-1-102 and the criteria and procedures for termination of parental rights. Each party shall sign the statement and be given a copy of it. The court must review the proposed plan, make any necessary modifications and ratify or approve the plan within sixty (60) days of the foster care placement. The department of children’s services shall, by rules promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 2, determine the required elements or contents of the permanency plan.

(B)(i) The parents or legal guardians of the child shall receive notice to appear at the court review of the permanency plan and the court shall explain on the record the law relating to abandonment contained in § 36-1-102, and shall explain that the consequences of failure to visit or support the child will be termination of the parents’ or guardians’ rights to the child, and the court will further explain that the parents or guardians may seek an attorney to represent the parents or guardians in any termination proceeding. If the parents or legal guardians are not at the hearing to review the permanency plan, the court shall explain to the parents or guardians at any subsequent hearing regarding the child held thereafter, that the consequences of failure to visit or support the child will be termination of the parents’ or guardians’ rights to the child and that they may seek an attorney to represent the parents or guardians in a termination proceeding.

(ii) If the parents or guardians of the child cannot be given notice to appear at the court review of the permanency plan, or if they refuse or fail to appear at the court review of the permanency plan, or cannot be found to provide notice for the court review of the permanency plan, any agency that holds custody of the child in foster care or in any other type of care and that seeks to terminate parental or guardian rights based upon abandonment of that child under § 36-1-102, shall not be precluded from proceeding with the termination based upon the grounds of abandonment, if the agency demonstrates at the time of the termination proceeding:

(a) That the court record shows, or the petitioning party presents to the court a copy of the permanency plan that shows that the defendant parents or legal guardians, subsequent to the court review in subdivision (a)(2)(B)(i), has signed the portion of the permanency plan that describes the criteria for establishing abandonment under § 36-1-102, or that the court record shows that, at a subsequent hearing regarding the child, the court made the statements to the parents or legal guardians required by subdivision (a)(2)(B)(i);

(b) By an affidavit, that the child’s permanency plan containing language that describes the criteria for establishing abandonment under § 36-1-102 was presented by the agency party to the parents or guardians at any time prior to filing the termination petition, or that there was an attempt at any time to present the plan that describes the criteria for establishing abandonment under § 36-1-102 to the parents or guardians at any time by the agency party, and that such

attempt was refused by the parents or guardians; and

(c) That, if the court record does not contain a signed copy of the permanency plan, or if the petitioning agency cannot present evidence of a permanency plan showing evidence of such notice having been given or an affidavit showing that the plan was given or that the plan was attempted to be given to the parents or guardians by the agency and was refused by the parents or guardians, and, in this circumstance, if there is no other court record of the explanation by the court of the consequences of abandonment and the right to seek an attorney at any time, then the petitioning agency shall file with the court an affidavit in the termination proceeding that describes in detail the party's diligent efforts to bring such notice required by subdivision (a)(2)(B)(i) to such parent or guardian at any time prior to filing the agency's filing of the termination petition.

(C) Substantial noncompliance by the parent with the statement of responsibilities provides grounds for the termination of parental rights, notwithstanding other statutory provisions for termination of parental rights, and notwithstanding the failure of the parent to sign or to agree to such statement if the court finds the parent was informed of its contents, and that the requirements of the statement are reasonable and are related to remedying the conditions that necessitate foster care placement. The permanency plan shall not require the parent to obtain employment if such parent has sufficient resources from other means to care for the child, and shall not require the parent to provide the child with the child's own bedroom unless specific safety or medical reasons exist that would make bedroom placement of the child with another child unsafe.

(3) At any hearing in which a court orders a child to be placed in foster care, the judge shall determine whether a permanency plan has been prepared and whether the statement of responsibilities has been agreed upon by the parties. If a statement has been agreed upon by the parties, the court shall review it and approve it if the court finds it to be in the best interest of the child. If a plan had not been prepared or parties have not agreed to a statement of responsibilities, the court may continue the hearing for such time, not to exceed thirty (30) days, as may be necessary to give the parties an opportunity to attempt to agree on a suitable plan, which may then be approved by the court without a further hearing if the court finds the plan to be in the best interest of the child, but no longer than sixty (60) days after the foster care placement, except as provided in § 37-1-166.

(4)(A) If the parties are unable to agree on a statement of responsibilities during this period of time, the court shall hold a further informal hearing to decide on a statement of responsibilities. At such hearing, all relevant evidence, including oral and written reports, may be received by the court and relied upon to the extent of its probative value. The parties or their counsel shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making the reports.

(B) In determining the terms of the statement, the court shall, insofar as possible, in accordance with the best interest of the child, seek to:

- (i) Return the child to the parent;
- (ii) Permanently place the child with a fit and willing relative or relatives of the child;

- (iii) Pursue adoptive placement;
- (iv) Pursue permanent guardianship; or
- (v) Provide a planned permanent living arrangement for the child.

(C) The court shall take such action as may be necessary to develop and approve a plan that it finds to be in the best interest of the child. The plan shall be approved within sixty (60) days of the foster care placement, except as provided in § 37-1-166.

(5) In cases involving child abuse or child neglect, with such child being placed in foster care, the statement of responsibilities shall stipulate that the abusing or neglecting parent shall receive appropriate rehabilitative assistance through mental health consultation if so ordered by the court.

(6) The plan for a child who remains in foster care for one (1) year may be modified to a long-term agreement between a foster parent and the agency charged with the caring and custody of the child. Such agreements with foster parents shall include:

(A) Appropriate arrangements for the child; and

(B) Procedures for the termination of the agreement by either party when in the best interests of the child. When the department of children's services is a party to the agreement, such agreement must include provisions permitting variation in monetary allowances from fiscal year to fiscal year depending upon appropriations by the general assembly.

(b)(1) In lieu of the provisions of subsection (a), in the event a child is in foster care as a result of a surrender or termination of parental rights, the agency having guardianship of the child shall prepare and submit to the foster care advisory review board or court in the county in which the child is in foster care a plan for each such child.

(2) Such plan shall include a goal for each child of:

(A) Permanent placement of the child with a fit and willing relative or relatives of the child;

(B) Adoption, giving appropriate consideration to § 36-1-115(g) when applicable;

(C) Permanent guardianship; or

(D) A planned permanent living arrangement.

(3) Specific reasons must be included in the plan for any goal other than placement of the child with a relative of the child or adoption. Such plan shall also include a statement of specific responsibilities of the agency and the caseworker of such agency designed to achieve the stated goal.

(c) The statement of responsibilities on a permanency plan that is ordered by the court shall empower the state agency to select any specific residential or treatment placement or programs for the child according to the determination made by that state agency, its employees, agents or contractors.

(d) Whenever a child is removed from such child's home and placed in the department's custody, the department shall seek to place the child with a fit and willing relative if such placement provides for the safety and is in the best interest of the child. Notwithstanding any provision of this section or any other law to the contrary, whenever return of a child to such child's parent is determined not to be in the best interest of the child, then such relative with whom the child has been placed shall be given priority for permanent placement or adoption of the child prior to pursuing adoptive placement of such child with a non-relative.

(e) In addition to completing the permanency plan, within thirty (30) days of

the date of foster care placement, the placement agency shall collect as much information as possible in order to complete a medical and social history on the child and the child's biological family on the form promulgated by the department pursuant to § 36-1-111(k).

(f) Within twelve (12) months of a child entering state custody, the department shall review the child's case to determine, in the department's discretion, if reunification with family is feasible, and if not, whether to pursue termination of parental rights.

37-2-601. Establishment of extension of foster care services advisory council.

(a)(1) The executive director of the Tennessee commission on children and youth shall establish a non-funded, voluntary, extension of foster care services advisory council, which shall be responsible for:

(A) Identifying strategies to assess and track effectiveness of extension of foster care services and the operation of resources centers authorized by this part; and

(B) Identifying the following:

(i) Strategies for maintaining accurate numbers of children served by extension of foster care services;

(ii) The number of services provided by the department of children's services;

(iii) The number of children who accept these services;

(iv) Reasons why children do not accept these services; and

(v) The number of children who continue their education and the number who do not.

(2) The advisory council shall report no later than October 31 of each year to the Tennessee commission on children and youth, the committee of the house of representatives having oversight over children and families, the health committee of the house of representatives, and the health and welfare committee of the senate, making recommendations for the continuing operation of the system of extension of foster care services and supports.

(b) The department of children's services and other state agencies that provide services or supports to youth transitioning out of state custody shall participate fully in the council and shall respond to the recommendations put forth by the council as appropriate.

37-3-115. Report, plan and budget.

(a)(1) No later than February 1, 2009, the council shall submit a report regarding the status of the development of a plan for a statewide system of care for children's mental health. The report shall include, but not be limited to:

(A) The timeline for development of the overall plan;

(B) Barriers to implementation of such a plan, if any;

(C) A list of all programs currently in place to serve and support children's mental health needs and whether those programs are evidence-based, research-based or theory-based;

(D) The status of interagency cooperation relative to a system of children's mental health care throughout the state; and

(E) A financial resource map of all current federal and state funded programs that support or serve children with mental health needs in the

state.

(2) The report shall also include cost analysis information produced in accordance with § 37-3-112(d) and shall provide recommendations for improving efficiency in the use of existing state and federal funds by increasing coordination of children's mental health care with other child-focused service delivery systems.

(b) No later than July 1, 2010, the council shall submit a plan prepared in accordance with § 37-3-112 and a budget for implementing the plan. The plan shall provide for demonstration sites in at least three (3) areas of the state, with at least one (1) area to be in each grand division. If the plan submitted by July 1, 2010, is approved and funded by the legislature no later than July 1, 2012, the council shall submit a plan and budget for extending the demonstration sites to a total of no less than ten (10) areas of the state selected by the council. If the plan submitted by July 1, 2012, is approved and funded by the legislature, no later than July 1, 2013, the council shall submit a plan that will accomplish implementation of the system of children's mental health care statewide. The council shall create and submit with each plan current financial resource maps and cost analysis, and the information shall be required to accompany any recommendations the council makes regarding the continued development of a statewide system of children's mental health care.

(c) The plan, budget and report required by subsections (a) and (b) shall be submitted to the governor, the judiciary, education, and health and welfare committees of the senate and the judiciary, education, and health committees of the house of representatives.

37-3-116. Resource mapping of funding sources — Report.

(a) The commission shall design and oversee a resource mapping of all federal and state funding sources and funding streams that support the health, safety, permanence, growth, development and education of children in this state from conception through the age of majority or so long as they may remain in the custody of the state. The resource mapping shall include, but not be limited to:

(1) An inventory of all federal and state funding sources that support children in this state;

(2) An inventory of all state, federal or government subsidized services and programs offered to children in this state, set out by program, target population, geographical region, agency or any other grouping that would assist the general assembly in determining whether there are overlapping programs that lead to duplication within the state, gaps in service delivery and any administrative inefficiencies generally;

(3) A description of the manner in which the funds are being used within the agencies or organizations, the performance measures in place to assess the use of such funding and the intended outcomes of the programs and services;

(4) Government mandates for the use of the funds, if any; and

(5) An inventory of the funds for which the state may be eligible, but is currently not receiving or using, and the reasons why the funds are not being used.

(b) The commission shall update the report each year and shall subsequently assure that the resource map is periodically and timely updated, so as to maintain a current resource map of the funds used to support children in the

state.

(c) The comptroller of the treasury and each department of state government or agency in this state shall provide assistance upon request to the commission in effectuating the purpose of this section.

(d) On or before February 15, 2009, a preliminary report shall be provided by the commission; and on or before April 15, 2010, and each successive year thereafter, the commission shall provide a full report to the judiciary, education, and health and welfare committees of the senate, the education and health committees of the house of representatives, and the committee of the house of representatives having oversight over children and families. The full report shall include, but not be limited to, the resource map and any recommendations, including proposed legislation, for improving the efficiency and effectiveness of programs offered to children in this state.

37-3-803. Creation — Findings and recommendations — Duties — Reports.

(a) There is created the Tennessee second look commission. The commission shall review an appropriate sampling of cases involving a second or subsequent incident of severe child abuse in order to provide recommendations and findings to the general assembly regarding whether or not severe child abuse cases are handled in a manner that provides adequate protection to the children of this state.

(b) The commission's findings and recommendations shall address all stages of investigating and attempting to remedy severe child abuse, including but not limited to:

(1) The reporting, investigating and referring of alleged severe child abuse cases by state agencies and others;

(2) The risk of severe child abuse victims being returned to the custody of the child's abuser or placed by the state in an environment where the child is at risk of being abused a second or subsequent time;

(3) The procedures used by juvenile courts and courts exercising jurisdiction over criminal and civil child abuse, neglect and endangerment cases;

(4) The laws, rules, or guidelines used to determine whether or not an alleged perpetrator of severe child abuse is to be prosecuted;

(5) The causes of severe child abuse in Tennessee and any preventative measures that would reduce the number of severe child abuse cases in this state;

(6) The manner in which severe child abuse data is collected and used by multiple agencies within the state; and

(7) The representation provided to severe child abuse victims, including but not limited to, representation provided by attorneys, guardians and advocates.

(c) The commission may:

(1) Promulgate bylaws to provide for the election of commission officers, establishment of committees, meetings, and other matters relating to commission functions;

(2) Request and receive the cooperation of other state departments and agencies in carrying out the duties of this part; and

(3) Hold hearings, hear testimony, and conduct research and other appropriate activities.

(d)(1) The commission shall provide a report to the general assembly on the commission's progress in fulfilling its duties set out in this section no later than January 1, 2011.

(2) The commission shall provide a report detailing the commission's findings and recommendations from a review of the appropriate sampling no later than January 1, 2012, and annually thereafter, to the general assembly. Such report shall be submitted to the governor, the judiciary and health and welfare committees of the senate and the judiciary committee of the house of representatives.

37-5-105. Powers and duties of commissioner.

The commissioner, or the commissioner's designee, has the following powers and duties in addition to such other powers and duties as may be specifically provided by law in this title or as otherwise provided by law:

(1) Select and recommend to the appropriate state officials the employment or transfer of all personnel required for the operation of the department, except, however, the transfer of any employees pursuant to this chapter or the initial organization of the new department pursuant to this chapter shall not result in any impairment, interruption or diminution of employee rights, privileges, salary, benefits, leave accumulation or employment; and further, such transfer of employees pursuant to this chapter or initial organization of the new department pursuant to this chapter shall not result in a contract employee supervising a preferred service employee or conducting a job performance evaluation for a preferred service employee;

(2) Recommend to the appropriate state officials the salaries and compensation of all officers and employees of the department;

(3) Make and adopt rules, regulations and policies for the government, management and supervision of state children's service agencies or facilities, and children's services; prescribe the powers and duties of the officers and employees thereof; and provide for the care of children served by the department; provided, however, that such rules shall be consistent with and subject to licensing approval authority of any other state agency that has responsibility for licensing or approval of any portion of program services or facilities provided by the department;

(4)(A) Publish, in accordance with the rules, regulations, policies and procedures of the state publication committee, an annual report on the operation of the department and the services and programs under its supervision by January 31 and furnish the report to the governor, members of the general assembly, other persons and relevant entities that may request the report such as the Tennessee council of juvenile and family court judges and the Tennessee commission on children and youth, and others as the governor may consider appropriate;

(B) Such annual report shall contain information regarding foster care services, including definitions, racial composition, and statutory or regulatory authority where appropriate as to the following:

(i) **Placement Information.** Total number of children in foster care by region and segmented by:

(a) Level of placement (I-IV);

(b) Placement type (department of children's services foster home, continuum contracts, pre-adoptive or adoptive, diagnostic shelter, emergency shelter, medical or surgical hospital, miscellaneous, spe-

cialized residential school, trial home visit);

(c) Average length of custody; and

(d) Number of department of children's services foster care placements currently available;

(ii) **Social Services Caseload Information.** Total social services case managers by region and segmented by:

(a) Case manager slots;

(b) Actual filled slots;

(c) Average salary;

(d) Average social services caseload; and

(e) Range of social services caseload;

(iii) **Legal Support by Region.** Total number of attorneys and paralegal staff:

(a) Number of attorney slots;

(b) Number of attorney filled slots;

(c) Number of paralegal slots; and

(d) Number of paralegal filled slots;

(5) Direct the placement of children in appropriate state programs or facilities, or contract programs or facilities, in conformity with constitutional, statutory or regulatory requirements;

(6) Assume general responsibility for the proper and efficient operation of the department, its services and programs. The commissioner may establish such divisions and units within the department as necessary for its efficient operation;

(7) Promulgate necessary rules and regulations to govern administrative searches and inspections of employees of the department, juveniles in the custody of the department and visitors to facilities of the department. Such rules shall provide guidelines and standards for the manner in which the searches authorized by this subdivision (7) shall be conducted;

(8) Promulgate rules and regulations concerning drug testing that are not inconsistent with the provisions of § 41-1-121;

(9)(A) Conduct investigations as deemed necessary to the performance of the commissioner's duties, and to that end, the commissioner shall have the same power as a judge of the court of general sessions to administer oaths and to enforce the attendance and testimony of witnesses and the production of books and papers;

(B) The commissioner shall keep a record of such investigations, stating the time, place, nature or subject, witnesses summoned and examined, and the commissioner's conclusions;

(C) In matters involving the conduct of an office, a stenographic report of the evidence may be taken and a copy thereof with all documents introduced kept on file at the office of the department;

(D) The fees of witnesses for attendance and travel shall be the same as in the circuit court, but no officer or employee of the institution under investigation shall be entitled thereto;

(E) Any judge of the circuit or chancery court, either in term time or in vacation, upon application of the commissioner, may compel the attendance of witnesses, the production of books or papers and the giving of testimony before the commissioner, by a judgment for contempt or otherwise, in the same manner as in the cases before a circuit or chancery court;

(10)(A) The commissioner shall have the authority to conduct or cause to be conducted any administrative hearings relating to any factual determinations that the department is authorized or required to make pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, or pursuant to any other hearing procedures required by law or that may be necessary to provide due process procedures for individuals affected by the programs administered by the department;

(B) The commissioner, or any officer or employee of the department upon written authorization from the commissioner, has the power to administer oath and affirmations, take depositions, issue subpoenas and require the production of documents and any books and records that may be necessary in the conduct of such hearings;

(11) Perform all duties and exercise all authority set forth in part 3 of this chapter, regarding community services agencies;

(12)(A) Establish a children's services advisory council having fifteen (15) members appointed by the commissioner to act in an advisory capacity on any matter within the jurisdiction of the department. Appointees to the council shall include, but not be limited to, representatives of local law enforcement, mental health professionals, local education agencies, juvenile court officials, social workers, health care providers, consumers of services such as parents, foster parents or family members of children who are or have been recipients of services from the department, child advocates, persons having specialized knowledge or experience and public and private agencies that provide services to children. The members of the council shall be appointed with a conscious intention of reflecting a diverse mixture with respect to race and gender. Each community services agency region shall be represented by at least one (1) individual on the council;

(B) The term of a member of the children's services advisory council shall be three (3) years with the terms staggered so as to replace no more than one third ($\frac{1}{3}$) of the members each year. Members of the council may be reappointed after their terms expire. Members of the council shall continue in office until the expiration of the terms for which they were respectively appointed and until such time as their successors are appointed. Vacancies occurring on the council by reasons of death or resignation shall be filled in the same manner as a regular appointment for the remainder of the unexpired term;

(C) Members shall be reimbursed for their actual expenses for attending meetings of the council. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter;

(D) The duties of the council shall be to advise the commissioner regarding issues pertaining to the purpose of the department and its work when requested by the commissioner. Annually, the council shall elect one (1) of its members to serve as chair of the council and one (1) member to serve as secretary. Minutes of each meeting shall be kept and sent to the commissioner. Any officer may be elected to consecutive terms;

(13) Establish, from time to time, committees composed of representatives from the public or private sectors, or both, for such purposes and durations as may be deemed appropriate or required by the commissioner. Members of such committees shall be reimbursed for their actual expenses

for attending meetings of their respective committees. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter;

(14)(A) Establish and administer, jointly with the state treasurer, a scholarship program for the sole purpose of providing financial assistance to foster children wishing to pursue opportunities in higher education;

(B) The scholarship program established and administered pursuant to subdivision (14)(A) shall be funded from state appropriations and from such individual and corporate grants, donations and contributions as the commissioner shall solicit and receive specifically for such purpose;

(15) In consultation with the child sexual abuse task force established by § 37-1-603(b)(1), the child advocacy centers, the Tennessee council of juvenile and family court judges, the Tennessee commission on children and youth, the Tennessee supreme court administrative office of the court, the district attorneys general conference and the juvenile and criminal court clerks, develop a plan and recommendations regarding requirements for extensive, detailed information regarding all reports of child maltreatment and the criminal, civil or administrative disposition of all allegations, by type, of child maltreatment and, by type, of disposition, including data regarding the victims and the perpetrators, to be collected by the department and submit the plan and recommendations to the judiciary committee of the senate and the committee of the house of representatives having oversight over children and families. Any child-specific information shall be confidential, except as otherwise provided by statute;

(16) Promote collaboration and accountability among local, public, and private programs to improve the lives of children and families, including continuing accreditation with the Council on Accreditation for Children and Family Services, Inc. or its equivalent, to develop strategies consistent with best practice standards for delivery of services. If the department fails to maintain accreditation, a report shall be provided to the general assembly outlining the reasons the department is no longer accredited; and

(17)(A) Report to the governor, the chief clerk of the senate, and the chief clerk of the house of representatives on probation and juvenile justice evidence-based treatment services by January 31 of each year for the previous fiscal year;

(B) Such report shall contain the following:

(i) Probation information:

- (a) The number of children served by state probation;
- (b) The number of children served by county probation as reported to the department in § 37-1-506(b);
- (c) The average daily cost per child served by state probation;

(ii) Custodial information:

- (a) The total number of children in juvenile justice placements;
- (b) The number of children placed in youth development centers;
- (c) The number of children placed in community placements;
- (d) The average daily cost per child placed in a community placement; and

(e) The average daily cost per child placed in a youth development center;

(iii) Recidivism and system penetration information:

- (a) The number of children receiving probation services who entered state custody;
- (b) The recidivism rate for children receiving state probation services;
- (c) The recidivism rate for children receiving county probation services;
- (d) The recidivism rate for children not receiving probation services; and
- (e) The recidivism rate for children receiving any probation services; and
- (iv) Evidence-based services information:
 - (a) The number of children receiving evidence-based treatment services;
 - (b) The percentage of treatment services that are evidence-based;
 - (c) The number of children receiving prevention services;
 - (d) The number of children receiving evidence-based prevention services; and
 - (e) A list of juvenile courts receiving prevention grants or other prevention funding from the department, the amount of funding received, and the percentage of funding being used for evidence-based prevention services.

37-5-124. Disclosure of the death or near fatality of persons in the custody of the department of children's services.

- (a) The commissioner of children's services shall provide a report of the fatality or near fatality of:
 - (1) Any child in the custody of the department;
 - (2) Any child who is the subject of an ongoing investigation by child protective services or has been the subject of an investigation by child protective services within the forty-five (45) days immediately preceding the child's fatality or near fatality; or
 - (3) Any child whose fatality or near fatality resulted in an investigation of the safety and well-being of another child in the home;within ten (10) business days of the fatality or near fatality of such child to the members of the senate and house of representatives representing the child and to the committee of the house of representatives having oversight over children and families. The district attorney for the judicial district in which the child was located must also receive a copy of the report provided to the legislators and may communicate with the legislators representing the child about the report and its contents or about any other otherwise confidential information that the legislators may have acquired pursuant to § 37-5-107(d).
- (b) The legislators representing the child shall be determined by the home address of the child. If the child was not a resident of Tennessee prior to being placed in the custody of the department, the legislators representing the child shall be determined by the address of the residence or facility in which the child was located at the time of the child's fatality or near fatality.
- (c) For the purposes of this section, "near fatality" shall have the same meaning as in § 37-5-107.

37-5-125. Model programs for adolescents at risk.

(a) Through contract with nonprofit corporations, community organizations, volunteer groups, churches, schools and family resource centers, the department of children's services is authorized to establish in each grand division two (2) model after school or summer programs, or both, for young adolescents at risk of placement in the custody of the state. An entity may contract with the department to operate more than one (1) program. Each such model program shall serve not more than twenty-five (25) adolescents and shall strive to improve self-esteem, motivation, responsibility, achievement and goal setting through a variety of activities including, but not necessarily limited to, counseling, tutoring, mentoring, field trips, cultural enrichment experiences, team sports and team projects and problem solving. State funding for each such model program shall not exceed eight thousand two hundred fifty dollars (\$8,250) per program.

(b) The department shall promulgate policies and guidelines defining:

(1) The phrase "young adolescents at risk of placement in the custody of the state;" and

(2) The minimum requirements and components for programs established and funded pursuant to subsection (a).

(c) On or before January 15 of each year, the department shall evaluate the success of such programs and shall report findings and recommendations to the judiciary committee of the senate and the committee of the house of representatives having oversight over children and families.

37-5-128. Review of department policies and attached protocol and procedures that affect children the department serves — Uniformity of applicability.

Before March 1 of each year, the department shall appear before the judiciary committee of the senate and the judiciary committee of the house of representatives for a review of the policies of the department and attached protocol and procedures for these policies and any provisions that affect the children the department serves. During the review, the committees shall consider the uniformity of applicability across the state of the department's policies and attached protocol and procedures for these policies and any provisions that affect the children the department serves.

37-5-129. Review of new departmental policies.

The department shall submit for review by the judiciary committee of the senate and the committee of the house of representatives having oversight over children and families any new departmental policies within sixty (60) days of adoption of the policies.

37-5-603. Establishment of demonstration program — State advisory committee — Reporting.

(a)(1) No later than July 1, 2006, the department shall establish a demonstration program that conforms to the requirements of this part and carries out its purposes in at least three (3) but no more than five (5) areas of the state selected by the department. The multi-level response system shall be designed to protect children from maltreatment, through the effective use of

available community-based public and private services. The program should be staffed by case managers and other personnel and child protective services investigators, as called for in this part. There shall be at least one (1) area in each grand division of the state. Areas may be composed of any combination of one (1) or more counties. No later than July 1, 2007, the demonstration program shall be expanded to include a total of no less than ten (10) areas of the state selected by the department. No later than July 1, 2010, the program shall be implemented in all areas of the state.

(2) To facilitate accomplishment of the purposes of this part, the department shall establish a state advisory committee composed of representatives from the offices of the commissioners of correction, education, health, human services, mental health and substance abuse services, and intellectual and developmental disabilities, the commission on children and youth, and any other state or community-based public or private agency or office that the department determines serves children or families in ways that might be used in the demonstration program. The department shall pursue the creation of such interagency agreements permitted by law as will enable the department to accomplish the purposes of this part.

(b) The department shall advise the governor, the judiciary committee of the senate, the committee of the house of representatives having oversight over children and families, and the health and welfare committee of the senate of the progress the department is making toward implementation of the program by providing them with a summary progress report highlighting key implementation activities, including, but not limited to, site selection, timelines, barriers to implementation, identification of needed resources, interagency cooperation, and progress in establishing local advisory committees, on October 1, 2005, and every six (6) months thereafter, until statewide implementation is achieved. After the first year of operation of the program, the department shall include in its report any recommendations for changes in the law, including whether there are any kinds of cases investigated under chapter 1, parts 4 and 6 of this title, that the experience of the department shows can be safely excluded from mandatory investigation under those parts.

37-5-605. Annual report — Collection and maintenance of data.

(a) No later than October 1, 2007, the department shall submit to the governor, the health and welfare committee of the senate, the committee of the house of representatives having oversight over children and families, and the judiciary committee of the senate a report on the first full year of the demonstration program. No later than October 1, 2008, and each year thereafter until this part is implemented in all areas of the state, the department shall provide an annual report evaluating the demonstration project to the same parties. Upon request, all persons and groups to whom the annual report is distributed shall be entitled to receive a detailed explanation of the procedures used to evaluate the system and shall be given the raw data used to support the report. Outcomes to be evaluated in each of these reports shall include, but not be limited to, the following:

(1) The safety of children under the program compared with children served under chapter 1, part 4 or part 6 of this title, in light of the following and other factors that may provide useful information about the effectiveness of the program for its purposes:

(A) The number of cases processed under the program, by types of risks and needs addressed;

(B) The number of cases referred for proceedings under chapter 1 of this title, by type;

(C) The number of final dispositions of cases in the current reporting year by disposition as follows:

(i) Closed on initial review;

(ii) Closed after assessment;

(iii) Closed after assessment and referral for available community-based public or private services;

(iv) Numbers and types of cases in which the department proceeded under chapter 1 of this title, after the initial review; and

(v) Numbers and types of cases in which there were reports of harm or sexual abuse under chapter 1, part 4 or part 6 of this title, with respect to children in a family considered or served under this part;

(D) The extent to which the program has reduced the incidence of children who are subjected to harm or sexual abuse that would require a report under chapter 1, part 4 or part 6 of this title, or who otherwise would become eligible for services under chapter 1 of this title;

(E) To whom reports of harm or sexual abuse were determined to show that there had been no harm or sexual abuse or that those reports were invalid; and

(F) The type and amount of community-based public or private services received by families;

(2) The timeliness of response by the department under the program;

(3) The timeliness of services provided to children and families under the program;

(4) The level of coordination with public and private community-based service providers to ensure community-based services are available to the public through the program;

(5) The cost effectiveness of the program with respect to the department, available community-based public and private service resources, and law enforcement and judiciary resources that might otherwise have become involved in the cases; and

(6) The effectiveness of the program in enhancing the welfare of children and keeping families together.

(b) Upon implementation of the multi-level response system in any area, the department shall ensure that all data necessary for compliance with this section is collected and maintained.

38-1-101. Reports to law enforcement officials of certain types of injuries — Immunity for reporting — Exception.

(a)(1) All hospitals, clinics, sanitariums, doctors, physicians, surgeons, nurses, pharmacists, undertakers, embalmers, or other persons called upon to tender aid to persons suffering from any wound or other injury inflicted by means of a knife, pistol, gun, or other deadly weapon, or by other means of violence, or suffering from the effects of poison, or suffocation, or where a wound or injury is reasonably believed to have resulted from exposure to a methamphetamine laboratory or a methamphetamine related fire, explosion, or chemical release, or appears to be suffering from or to have been the

victim of female genital mutilation in violation of § 39-13-110, shall report the same immediately to the chief of police, if the injured person is in or brought into or the injury occurred in an incorporated town or city, or to the sheriff if the injured person is in or brought into or the injury occurred in the county outside the corporate limits of any incorporated town or city, and shall also, in either event, report the same immediately to the district attorney general or a member of the district attorney general's staff of the judicial district in which the injured person is, or has been brought into, or the injury occurred. Such report shall state the name, residence, and employer of such person, if known, such person's whereabouts at the time the report is made, the place the injury occurred, and the character and extent of such injuries.

(2) No later than January 15 of each year, district attorneys general shall report the number of reports of a person who appeared to be suffering from or to have been the victim of female genital mutilation in violation of § 39-13-110 received pursuant to subdivision (a)(1) to the senate judiciary committee and the judiciary committee of the house of representatives.

(b) Injuries to minors that are required to be reported by § 37-1-403 are not required to be reported under this section.

(c)(1) Where a person acts in good faith in making a report under subsection (a), that person shall be immune from any civil liability and shall have an affirmative defense to any criminal liability arising from that protected activity.

(2) There exists a rebuttable presumption that a person making a report under subsection (a) is doing so in good faith.

(d) For purposes of this part, "person" means any individual, firm, partnership, co-partnership, association, corporation, governmental subdivision or agency, or other organization or other legal entity, or any agent, servant, or combination of persons thereof.

(e)(1) The reporting provisions in subsection (a) do not apply if the person seeking or receiving treatment:

- (A) Is 18 years of age or older;
- (B) Objects to the release of any identifying information to law enforcement officials; and
- (C) Is a victim of a sexual assault offense or domestic abuse as defined in § 36-3-601.

(2) This exception shall not apply and the injuries shall be reported as provided in subsection (a) if the injuries incurred by the sexual assault or domestic abuse victim are considered by the treating healthcare professional to be life threatening, or the victim is being treated for injuries inflicted by strangulation, a knife, pistol, gun, or other deadly weapon.

(3) A hospital, healthcare provider or other person who is required to report under subsection (a) shall be immune from civil liability for not reporting if in good faith the hospital, healthcare provider or other person does not report the injury in order to comply with this subsection (e).

(4) If a person injured as provided in subsection (a) is first treated by an EMT, EMT-P, emergency medical or rescue worker, firefighter or other first responder, it shall not be the duty of the first responder to determine if the patient comes within the provisions of subdivision (e)(1). If the first responder transports the patient to a healthcare facility, the first responder's duty is to notify the treating physician or emergency room staff at the facility

of the suspected cause of the patient's injury. If the patient is not transported to a healthcare facility, the first responder shall report the result of the call to the 911 center.

38-1-701. Immunity from civil liability for defect or malfunction in software program for registration of non-communicative person with law enforcement.

(a) Notwithstanding any law to the contrary, a person or entity does not have a cause of action against a local government or the officers, employees, or agents of a local government for any defect or malfunction in a software program intended to assist families of non-communicative persons register the non-communicative person with law enforcement in order to ensure the non-communicative person's safety, when the program was designed and distributed in good faith by the local government and without cost to the recipient local government or user of the program.

(b) No immunity conferred pursuant to subsection (a) attaches if the cause of action is based on gross negligence, willful misconduct, or bad faith.

38-3-118. Policies and guidelines regarding use of marked law enforcement vehicles by off-duty law enforcement officers for travel to and from vulnerable locations.

(a) Except as provided in subsection (b), a chief law enforcement officer of a state or local law enforcement agency may develop and implement policies and guidelines regarding the use of marked law enforcement vehicles by off-duty law enforcement officers for travel to and from vulnerable locations in order to project an enhanced security presence while at such locations.

(b) A chief law enforcement officer shall not develop or implement policies or guidelines in accordance with subsection (a) without the express approval of:

(1) With respect to a local law enforcement agency, the executive head or legislative body of the local government, as applicable, vested with the authority to direct such chief law enforcement officer; and

(2) With respect to a state law enforcement agency, the executive head of the state department or agency within which the state law enforcement agency is created.

(c) For purposes of this section, "vulnerable locations" includes places of worship, schools, and parks.

38-6-118. Expunged criminal offender and pretrial diversion database.

(a)(1) The Tennessee bureau of investigation shall establish within the bureau an expunged criminal offender and pretrial diversion database. Such database shall consist of the name, date of birth, social security number, charging offense, date of dismissal and date of expunction of a criminal offender who has:

(A) Been granted diversion either under title 40, chapter 15 or § 40-35-313; provided, however, that the bureau shall not be required to enter or maintain information into its database concerning any dismissal or expunction order dated on or after July 1, 1999, if the charge dismissed or expunged is classified as a Class B or C misdemeanor;

512

(B) Had the public records of such offense expunged following the dismissal of charges against the offender by reason of the successful completion of either the diversion program; or

(C) Had the public records of such offense expunged following the dismissal of charges for any other reason.

(2) The bureau shall obtain the information for the database from the abstracts or copies of orders sent to it by judges pursuant to §§ 40-15-105, 40-32-101 and 40-35-313. The bureau shall also obtain information for the database from its confidential records maintained for law enforcement purposes, the public portion of which were expunged prior to October 1, 1998.

(b)(1) When a judge or district attorney general requests a certificate from the bureau relative to a defendant's eligibility for pretrial diversion pursuant to title 40, chapter 15 or § 40-35-313, the bureau shall conduct a criminal history record check based upon the defendant's name, date of birth and social security number to determine if the defendant:

(A) Has a prior felony or Class A misdemeanor conviction;

(B) Has ever previously been granted a type of diversion; and

(C) Has ever had an order expunging the public records of a criminal offense following the dismissal of charges entered on behalf of such defendant.

(2) The bureau shall certify the results of such search to the requesting judge or district attorney general. The bureau shall not be required to search any other source or database in order to make the certification required by this section.

(c) Funding for the operational expenses of this section shall be as stated under § 40-32-101(d)(2) [repealed].

(d) Except for the purpose of certifying to judges and district attorneys general the information required in subsection (b), the expunged criminal offender and pretrial diversion database created by this section is not a public record and shall be maintained as confidential by the bureau; provided, however, that the bureau shall forward all information on expunction orders to the administrative office of the courts for the sole purpose of ensuring the expunction of records from the databases maintained pursuant to §§ 16-1-117 and 16-3-803(i).

(e) Upon a defendant's request for diversion pursuant to title 40, chapter 15, or § 40-35-313, all of which require a certificate from the bureau relative to the defendant's eligibility for diversion, the defendant shall pay a fee of one hundred dollars (\$100) to the bureau for deposit in the special fund established in § 40-32-101(d) and shall be used by the bureau for the purposes specified under § 40-32-101(d).

38-6-126. Transfer of fire investigations section within fire prevention division of department of commerce and insurance to bureau of investigation.

(a) The fire investigations section within the fire prevention division of the department of commerce and insurance is transferred to the Tennessee bureau of investigation.

(b) It is the intention of the general assembly that personnel, equipment, funding, duties, authority, and property transferred on May 24, 2019, be

transferred no later than January 1, 2020.

(c) The director of the Tennessee bureau of investigation will develop and implement a transfer plan. The plan must set forth the procedures under which transferred employees must be incorporated into the bureau.

(d) The initial transfer of any preferred service employee pursuant to the transfer from the department of commerce and insurance to the Tennessee bureau of investigation must not result in any impairment, interruption, or diminution of employee rights, salary, benefits, leave accumulation, or employment. The commissioner of human resources may determine if there has been any impairment of rights, salary, benefits, leave accumulation, or employment as a result of the initial transfer. Any preferred service employee may seek redress of any such determination through a request for declaratory order by the commissioner of human resources pursuant to § 4-5-223.

(e) The bureau shall electronically transmit a summary stating the cause, origin, and the circumstances of each fire investigation to the state fire marshal and the local fire department in the jurisdiction where the fire occurred.

38-6-207. Presentation of written report to the general assembly.

The director of the Tennessee bureau of investigation and the assistant director of the narcotics investigation division shall present a written report each year to the judiciary committee of the house of representatives and the judiciary committee of the senate. The report shall include, but shall not be limited to, the number of investigations currently under way by the division, investigations that resulted in arrests during the previous year, the number of such arrests that resulted in convictions, the class of felony or misdemeanor convictions resulting from such arrests, and the schedule of drug or drugs involved in such arrests and convictions. The report shall also include information regarding the levels of cooperation encountered among the various agencies, internally and otherwise, and other related information regarding the activities of the narcotics investigation division. The purpose of the report shall be to inform the general assembly as to the effectiveness and needs of the division. The above information shall be reported by race or ethnicity where available.

38-7-201. Tennessee medical examiner advisory council — Creation — Members.

(a)(1) There is created the Tennessee medical examiner advisory council, referred to in this section as the “council.”

(2)(A) The council shall consist of seventeen (17) members, each of whom shall be a resident of this state. The membership of the council consists of:

(i) Three (3) permanent ex officio voting members, consisting of:

(a) The director of the Tennessee bureau of investigation, or the director’s designee;

(b) The speaker of the senate, or the speaker’s designee; and

(c) The speaker of the house of representatives, or the speaker’s designee;

(ii) The following members appointed by the governor:

(a) One (1) forensic pathologist from each of the five (5) regional

forensic centers;

(b) One (1) district attorney general;

(c) One (1) district public defender;

(d) Three (3) county medical examiners, one (1) from each grand division of Tennessee;

(e) One (1) administrator from a non-hospital affiliated regional forensic center;

(f) One (1) licensed funeral director; and

(g) One (1) county mayor; and

(iii) The state chief medical examiner who shall serve as an ex officio voting member of the council.

(B) All regular appointments to the council shall be for terms of three (3) years with a maximum of two (2) consecutive terms. Each member shall serve until a successor is appointed. Vacancies shall be filled by appointment of the governor for the remainder of an unexpired term.

(b) Each member of the council shall receive reimbursement for travel expenses in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

(c) If an appointed administrator of the council is absent from more than half of the meetings scheduled in any calendar year without good cause, then a vacancy is created. The vacancy shall be filled by the governor.

(d) The council shall organize annually and shall meet to organize at the call of the prior year's chair. The council shall select the chair of the council. Meetings shall be held at least quarterly with additional meetings as frequently as may be required.

(e) Meetings of the council shall permit members to electronically participate in the meetings.

(f) The council shall have the power and duty to:

(1) Review candidates and make a recommendation to the commissioner of health on the appointment of the chief medical examiner and deputy state medical examiners;

(2) Assist the chief medical examiner in the development and updating of guidelines for death investigations and forensic autopsies in this state, to be promulgated as rules through the department of health;

(3) Submit an annual report on the standards and guidelines of the medical examiners system to the chairs of the health committee of the house of representatives and the health and welfare committee of the senate;

(4) Periodically review standards and guidelines promulgated by the department of health for the medical examiner system; and

(5) Provide reports and recommendations to the commissioner on causes of death which may need public health intervention, funding issues, information technology needs, and any other issues as the council sees fit.

38-8-111. In-service training — Cash supplements.

(a)(1) An eligible local unit of government that requires all police officers to complete an in-service training course each calendar year appropriate to the officer's rank and responsibility and the size and location of the officer's department, of at least forty (40) hours duration at a school certified or recognized by the commission, is entitled to receive a pay supplement of

eight hundred dollars (\$800) for any one (1) officer in any one (1) year, from the commission, to be paid to each officer, in addition to the officer's regular salary. Police officers are eligible for the pay supplement upon successful completion of forty (40) hours of the in-service training.

(2) An officer who has not completed eight (8) months of full-time service during the calendar year is not eligible to receive the salary supplement, except in the case of death of the officer, retirement, or medical disability. Upon submission of proper documentation by an officer, the commission shall include time spent in active military service when calculating the required eight (8) months of full-time service.

(3) Notwithstanding any other law, rule or regulation to the contrary, any police officer who served or serves on active duty in the armed forces of the United States during Operation Enduring Freedom, or any other period of armed conflict prescribed by presidential proclamation or federal law that occurs following the period involving Operation Enduring Freedom, shall receive the cash salary supplement provided pursuant to this section, if such service prevented or prevents such police officer from attending the in-service training program pursuant to this section.

(4) If an officer does not complete the in-service training program required by this section due to the death of the officer while in the line of duty, as determined pursuant to § 7-51-210, then the officer's designated beneficiary shall receive the cash salary supplement provided pursuant to this section despite the failure to complete the required in-service training.

(b) Commission funds made available under subsection (a) to local units shall be received, held and expended in accordance with subsections (a)-(c), including the rules and regulations issued by the commission, and the following specific restrictions:

(1) Funds provided shall be used only as a cash salary supplement to police officers;

(2) Each police officer shall be entitled to receive the state supplement that the officer's qualifications brought to the local unit;

(3) Funds provided shall not be used to supplant existing salaries or as substitutes for normal salary increases periodically due to police officers; and

(4) The cash salary supplement shall be considered as a bonus for the successful completion of training and shall not be considered as salary for subsequent years' determination of supplement or retirement purposes.

(c) No funds shall be expended under subsections (a)-(c) unless such funds are specifically appropriated for the purposes set forth in subsections (a) and (b).

(d) Any municipality or county legislative body may by resolution choose, by a two-thirds ($\frac{2}{3}$) vote of its entire membership, to establish an in-service training program together with a cash supplement for certified correction officers employed by the municipality or by the county. This program shall be separate from those programs operating pursuant to subsections (a)-(c). Each participating municipality or county shall establish criteria and rules and regulations governing its own program.

(e)(1) If the certification of any police officer is revoked on the grounds that such officer supplied or acquiesced in false information being supplied to the commission regarding the officer's eligibility for certification, then the officer shall be ineligible to receive the supplement authorized by this section. If revocation occurs after the supplement has been paid, the officer shall return

to the commission the full amount of the supplement paid. If the officer fails to return the supplement within sixty (60) days of the revocation of the certification, the commission may sue to recover the amount of the supplement in the appropriate circuit court.

(2) The commission may, in addition to or in lieu of any other lawful action, withhold the next pay supplement due an officer certified under this part if the officer certified under this part fails to notify the executive secretary of the commission of an arrest as prescribed in § 38-8-126(a)(1).

(f)(1) All sheriffs shall complete annual in-service training as set forth in this subsection (f) and shall receive cash salary supplements as provided by the commission for police officers. The commission shall apply the terms and conditions of this chapter to any sheriff with the exceptions contained in this subsection (f), and in performing its duties, the commission shall recognize the sheriff is an elected official without any employing agency.

(2) Sheriffs successfully completing the annual training shall receive cash salary supplements in the same manner and under the same conditions as set forth in this part for police officers, except that the commission shall make the funds for salary supplements available to the appropriate counties for payment to sheriffs.

(3) The commission shall issue to any sheriff successfully completing recruit training, or possessing its equivalency, and completing continuing annual training, a sheriff's certificate of compliance in the manner in which it issues police officers' certificates of compliance. A sheriff already holding any certificate of compliance from the commission may request the commission to recognize such sheriff's certification. A sheriff receiving a certificate of compliance has a continuing duty to meet all requirements as set forth in this section and § 8-8-102. In the event a person holding a police officer's certificate of compliance assumes the office of sheriff, the commission shall substitute for the police officer certificate, a sheriff's certificate of compliance.

(g) The Tennessee peace officer standards and training commission is authorized to carry out the provisions of § 8-4-115.

38-8-116. Law enforcement shooting ranges — Methods for retired law enforcement officer to meet annual requirements to carry firearm shipped or transported in interstate or foreign commerce — Maintenance of a list of approved certified firearms instructors. [Effective on January 1, 2020. See version effective until January 1, 2020.]

(a) All law enforcement agencies are allowed to open their shooting ranges for public use when such ranges are not being used by law enforcement personnel. The law enforcement agency in charge of a shooting range may establish reasonable regulations for the use of the firing range in order to promote the full use of the range without interfering with the needs of law enforcement personnel. The law enforcement agency may also charge a reasonable fee for persons or organizations using the range and may require users to make improvements to the range.

(b) A law enforcement officer acting as an individual and not as an employee, agent or on behalf of any governmental entity who has retired in good standing, as determined solely by the chief law enforcement officer of the retired officer's

law enforcement agency, may utilize any one (1) of the following methods to meet the annual requirements to carry a firearm that has been shipped or transported in interstate or foreign commerce in the same manner and to the same extent as authorized for an active law enforcement officer to carry a firearm of the same type:

(1) Obtaining a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer that indicates that the individual has, not less recently than one (1) year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm;

(2) Meeting the standards established by the Tennessee peace officer standards and training (POST) commission for qualification for active law enforcement officers to carry a firearm of the same type by qualifying at and obtaining such an annual certification directly from the Tennessee POST commission; or

(3) Upon payment of any customary associated fees, utilize a private shooting range and engage the services of a certified firearms instructor to provide the training and verify that the retired law enforcement officer has met the standards established by the Tennessee POST commission for qualification for active law enforcement officers to carry a firearm of the same type. The certified firearms instructor is authorized to issue a certificate indicating that the retired law enforcement officer has met the applicable standards.

(c)(1)(A) For purposes of this subsection (c), "retired law enforcement officer" means a retired law enforcement officer, as described in subsection (b), or a retired correctional officer previously employed by the department of correction or a retired inmate relations coordinator previously employed by the department of correction.

(B) A retired law enforcement officer may become certified to carry a firearm within this state that has been shipped or transported in interstate or foreign commerce in the same manner and to the same extent as authorized for an active law enforcement officer.

(2) To become certified pursuant to this subsection (c) for the first time, a retired officer may utilize any of the methods set out in subsection (b) to meet the standards established by the Tennessee POST commission for qualification for active law enforcement officers to carry a firearm of the same type.

(3)(A) To complete the criminal history background check requirement for certification, a retired officer shall go to the sheriff in the county where the officer resides to have fingerprints taken. The officer shall be required to present photo identification at the time the fingerprints are taken. If the presented photo identification does not accurately identify the officer, then the sheriff shall refuse to take the officer's fingerprints. The sheriff may charge a fee not to exceed six dollars (\$6.00) for taking the officer's fingerprints and sending two (2) copies of the same to the Tennessee POST commission.

(B) At the time an officer submits an application to be filed with the Tennessee POST commission, the officer shall present photo identification; if the name on the photo identification and the name on the application are not the same, the Tennessee POST commission shall refuse to accept the

application. If the person whose picture appears on the photo identification is not the same as the officer, the Tennessee POST commission shall refuse to accept the application.

(4) Upon receipt of the two (2) copies of an officer's fingerprints from a county sheriff's office, the Tennessee POST commission shall send the fingerprints of the officer and the application filed by the officer to the Tennessee bureau of investigation (TBI).

(5) Upon receipt of the fingerprints from the Tennessee POST commission, the TBI shall:

(A) Within thirty (30) days from receipt of the fingerprints, conduct computer searches to determine the officer's eligibility for a permit under subsection (c) as are available to the bureau based solely upon the applicant's name, date of birth and social security number and send the results of the searches to the Tennessee POST commission;

(B) Conduct a criminal history record check based upon one (1) set of the fingerprints received and send the results to the Tennessee POST commission; and

(C) Send one (1) set of the fingerprints received from the Tennessee POST commission to the federal bureau of investigation (FBI), request a federal criminal history record check based upon the fingerprints, as long as the service is available, and send the results of the check to the Tennessee POST commission.

(6)(A) The Tennessee POST commission shall deny a permit application if it determines from information contained in the criminal history record checks conducted by the TBI and FBI pursuant to subdivision (c)(5), or from other information, that the applicant:

(i) Is prohibited from purchasing or possessing a firearm in this state pursuant to § 39-17-1316, § 39-17-1307(b) or (c), 18 U.S.C. § 922(g), or any other state or federal law, or is prohibited from obtaining a handgun carry permit pursuant to § 39-17-1351 or § 39-17-1366; or

(ii) Has been convicted of the offense of driving under the influence of an intoxicant in this or any other state two (2) or more times within ten (10) years from the date of the application and at least one (1) of the convictions has occurred within five (5) years from the date of application or renewal.

(B) The Tennessee POST commission shall not be required to confirm the officer's eligibility for certification beyond the information received from the TBI and FBI, if any.

(7) Certification of a retired officer under this section shall be valid for a period of four (4) years from the date the Tennessee POST commission issues the officer's certification under this subsection (c).

(8) For a retired officer to recertify under this subsection (c) upon the expiration of the initial certification, the officer shall only be required to undergo the criminal history background check portion of the certification process. No fewer than ninety (90) days prior to the expiration of the officer's initial certification under this subsection (c), the officer shall undergo a criminal history background check in accordance with the procedure set out in subdivisions (c)(3)-(5).

(9) Because the certification requirements of this subsection (c) do not meet the requirements of 18 U.S.C. § 926C(d), a retired officer certified under this subsection (c) is not permitted to carry a firearm outside this state unless otherwise authorized to do so with a handgun carry permit issued pursuant

to § 39-17-1351.

(10) *If the provisions of 18 U.S.C. § 926C(d), or any other provision of federal law change to permit an officer certified under this section to carry a firearm outside this state, such officer shall be permitted to carry a firearm as permitted by federal law.*

(d) *The Tennessee POST commission shall maintain a list of approved certified firearms instructors, which may include any instructor utilized by a person to receive a handgun carry permit under § 39-17-1351, that it considers qualified to train and verify that a retired law enforcement officer has met the standards established by the Tennessee POST commission for qualification for active law enforcement officers to carry a firearm of the same type.*

(e) *A retired officer may bring the certificate issued by the certified firearms instructor pursuant to subdivision (b)(3) to the Tennessee POST commission. If the certificate was issued by an instructor who is on the POST commission's approved list and the commission determines, in the manner prescribed in § 38-8-123, that the applicant is eligible to carry a firearm under federal law, the commission shall issue the officer a certification that the officer has met the standards established by the Tennessee POST commission for qualification for active law enforcement officers to carry a firearm of the same type. A certificate so issued by the Tennessee POST commission shall be considered a certification issued by the state for purposes of 18 U.S.C. § 926C(d)(2)(B). A certificate issued to a retired officer pursuant to this subsection (e) shall be automatically revoked by operation of law upon the officer becoming ineligible to carry a firearm under federal law.*

(f) *The Tennessee POST commission is authorized to establish and charge a fee for issuing a certification under this section.*

(g)(1) *If a retired law enforcement officer who has been certified to carry a firearm pursuant to this section is arrested and charged with a violation of § 55-10-401 and the officer has one (1) or more prior convictions for the same offense within the last ten (10) years, then the court first having jurisdiction over the officer with respect to the charge shall order the officer to surrender the certificate and send the certificate to the certifying agency with a copy of the court's order that required the surrender of the certificate, unless the officer petitions the court for a hearing on the surrender.*

(2) *If the officer does petition the court for a hearing, the court shall determine whether the officer will present a material risk of physical harm to the public if released and allowed to retain the certificate. If the court determines that the officer will present a material risk of physical harm to the public, it shall condition the release of the officer, whether on bond or otherwise, upon the officer's surrender of the certificate to the court. The certifying agency shall suspend the certificate pending a final disposition on the charge against the officer.*

(3) *If the officer is not convicted of the charge or charges, the certificate shall be restored and returned to the officer and the temporary prohibition against the carrying of a firearm as a law enforcement officer shall be lifted.*

(4) *If the officer is convicted of the charge or charges, the certificate shall be revoked by the court and the revocation shall be noted in the judgment and minutes of the court. The court shall send the surrendered certificate to the issuing agency.*

38-8-312. Community oversight board.

(a) The authority of a community oversight board shall be limited to the review and consideration of matters reported to the board and the issuance of advisory reports and recommendations to the duly elected or appointed officials of the agencies involved in public safety and the administration of justice within the jurisdiction for which the community oversight board is established.

(b)(1) A community oversight board does not have the power to issue subpoenas for documents or to compel witness testimony.

(2) This subsection (b) does not prohibit the issuance of a subpoena by a local legislative body as otherwise provided by law.

(3) A subpoena issued by a local legislative body, on behalf of a community oversight board, must:

(A) Be issued pursuant to majority vote of the local legislative body;

(B) Not be issued in the form of a blanket authorization, but must specify each document to be produced or witness to testify; and

(C) Not be issued for documents that are confidential under § 10-7-504.

(c) Any employee or member of a community oversight board must be a registered voter, as defined by § 2-1-104(a)(24), of the jurisdiction for which the community oversight board is established.

(d) A community oversight board shall not restrict or otherwise limit membership based upon demographics, economic status, or employment history.

(e) Any document provided to a community oversight board that is confidential under § 10-7-504 or any other law shall be treated as confidential and shall not be released to the public.

(f) By February 1 of each year, a community oversight board shall submit a report to the chairs of the judiciary committees of the house of representatives and senate, including, but not limited to, the following information for the previous calendar year:

(1) The number and nature of matters reported to the board;

(2) The number and nature of reviews conducted by the board; and

(3) The number and nature of advisory reports and recommendations issued by the board.

(g) As used in this section:

(1) "Community oversight board" means a board or committee established by a local government to investigate or oversee investigation into possible law enforcement officer misconduct or the operations of an agency employing a law enforcement officer; and

(2) "Law enforcement officer" has the same meaning as defined in § 39-11-106.

39-11-106. Title definitions.

(a) As used in this title, unless the context requires otherwise:

(1) "Antique firearm" means:

(A) Any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before the year 1898;

(B) Any replica of any firearm described in subdivision (a)(1)(A) if such

replica:

- (i) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or
- (ii) Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or
- (C) Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition;
- (2) "Benefit" means anything reasonably regarded as economic gain, enhancement or advantage, including benefit to any other person in whose welfare the beneficiary is interested;
- (3) "Bodily injury" includes a cut, abrasion, bruise, burn or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty;
- (4) "Coercion" means a threat, however communicated, to:
 - (A) Commit any offense;
 - (B) Wrongfully accuse any person of any offense;
 - (C) Expose any person to hatred, contempt or ridicule;
 - (D) Harm the credit or business repute of any person; or
 - (E) Take or withhold action as a public servant or cause a public servant to take or withhold action;
- (5) "Criminal negligence" refers to a person who acts with criminal negligence with respect to the circumstances surrounding that person's conduct or the result of that conduct when the person ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint;
- (6) "Deadly weapon" means:
 - (A) A firearm or anything manifestly designed, made or adapted for the purpose of inflicting death or serious bodily injury; or
 - (B) Anything that in the manner of its use or intended use is capable of causing death or serious bodily injury;
- (7)(A) "Deception" means that a person knowingly:
 - (i) Creates or reinforces a false impression by words or conduct, including false impressions of fact, law, value or intention or other state of mind that the person does not believe to be true;
 - (ii) Prevents another from acquiring information which would likely affect the other's judgment in the transaction;
 - (iii) Fails to correct a false impression of law or fact the person knows to be false and:
 - (a) The person created; or
 - (b) Knows is likely to influence another;
 - (iv) Fails to disclose a lien, security interest, adverse claim or other legal impediment to the enjoyment of the property, whether the impediment is or is not valid, or is or is not a matter of public record;
 - (v) Employs any other scheme to defraud; or
 - (vi)(a) Promises performance that at the time the person knew the person did not have the ability to perform or that the person does not

intend to perform or knows will not be performed, except mere failure to perform is insufficient to establish that the person did not intend to perform or knew the promise would not be performed;

(b) Promising performance includes issuing a check or similar sight order for the payment of money or use of a credit or debit card when the person knows the check, sight order, or credit or debit slip will not be honored for any reason;

(B) "Deception" does not include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed;

(8) "Defendant" means a person accused of an offense under this title and includes any person who aids or abets the commission of such offense;

(9) "Deprive" means to:

(A) Withhold property from the owner permanently or for such a period of time as to substantially diminish the value or enjoyment of the property to the owner;

(B) Withhold property or cause it to be withheld for the purpose of restoring it only upon payment of a reward or other compensation; or

(C) Dispose of property or use it or transfer any interest in it under circumstances that make its restoration unlikely;

(10) "Destructive device":

(A) Means:

(i) Any explosive, incendiary, or poison gas:

(a) Bomb;

(b) Grenade;

(c) Rocket having a propellant charge of more than four ounces (4 oz.);

(d) Missile having an explosive or incendiary charge of more than one-quarter ounce (0.25 oz.);

(e) Mine; or

(f) Device similar to any of the devices described in subdivisions (a)(10)(A)(i)(a)-(e); and

(ii) Any combination of parts either designed or intended for use in converting any device into any destructive device described in subdivision (a)(10)(A)(i) and from which a destructive device may be readily assembled; and

(B) Does not include:

(i) Any device that is neither designed nor redesigned for use as a weapon;

(ii) Any device, although originally designed for use as a weapon, that is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device;

(iii) Surplus ordnance sold, loaned, or given by the secretary of the Army pursuant to 10 U.S.C. § 7684(2), 10 U.S.C. § 7685, or 10 U.S.C. § 7686;

(iv) Any antique or rifle which the owner intends to use solely for sporting purposes; or

(v) Any other device that is not likely to be used as a weapon;

(11) "Effective consent" means assent in fact, whether express or apparent, including assent by one legally authorized to act for another. Consent is not effective when:

- (A) Induced by deception or coercion;
- (B) Given by a person the defendant knows is not authorized to act as an agent;
- (C) Given by a person who, by reason of youth, mental disease or defect, or intoxication, is known by the defendant to be unable to make reasonable decisions regarding the subject matter; or
- (D) Given solely to detect the commission of an offense;
- (12) "Emancipated minor" means any minor who is or has been married, or has by court order or otherwise been freed from the care, custody and control of the minor's parents;
- (13) "Firearm":
 - (A) Means:
 - (i) Any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
 - (ii) The frame or receiver of any such weapon;
 - (iii) Any firearm muffler or firearm silencer; or
 - (iv) Any destructive device; and
 - (B) Does not include an antique firearm;
- (14) "Force" means compulsion by the use of physical power or violence and shall be broadly construed to accomplish the purposes of this title;
- (15) "Fraud" means as used in normal parlance and includes, but is not limited to, deceit, trickery, misrepresentation and subterfuge, and shall be broadly construed to accomplish the purposes of this title;
- (16) "Government" means the state or any political subdivision of the state, and includes any branch or agency of the state, a county, municipality or other political subdivision;
- (17) "Governmental record" means anything:
 - (A) Belonging to, received or kept by the government for information; or
 - (B) Required by law to be kept by others for information of the government;
- (18) "Handgun" means any firearm with a barrel length of less than twelve inches (12") that is designed, made or adapted to be fired with one (1) hand;
- (19) "Harm" means anything reasonably regarded as loss, disadvantage or injury, including harm to another person in whose welfare the person affected is interested;
- (20) "Intentional" means that a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person's conscious objective or desire to engage in the conduct or cause the result;
- (21) "Jail" includes workhouse and "workhouse" includes jail, whenever the context so requires or will permit;
- (22) "Knowing" means that a person acts knowingly with respect to the conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly with respect to a result of the person's conduct when the person is aware that the conduct is reasonably certain to cause the result;
- (23) "Law enforcement officer" means an officer, employee or agent of government who has a duty imposed by law to:
 - (A) Maintain public order; or
 - (B) Make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; and

(C) Investigate the commission or suspected commission of offenses;
(24) "Legal privilege" means a particular or peculiar benefit or advantage created by law;

(25) "Minor" means any person under eighteen (18) years of age;

(26)(A) "Obtain" means to:

(i) Bring about a transfer or purported transfer of property or of a legally recognized interest in the property, whether to the defendant or another; or

(ii) Secure the performance of service;

(B) "Obtain" includes, but is not limited to, the taking, carrying away or the sale, conveyance or transfer of title to or interest in or possession of property, and includes, but is not limited to, conduct known as larceny, larceny by trick, larceny by conversion, embezzlement, extortion or obtaining property by false pretenses;

(27) "Official proceeding" means any type of administrative, executive, legislative or judicial proceeding that may be conducted before a public servant authorized by law to take statements under oath;

(28) "Owner" means a person, other than the defendant, who has possession of or any interest other than a mortgage, deed of trust or security interest in property, even though that possession or interest is unlawful and without whose consent the defendant has no authority to exert control over the property;

(29) "Person" includes the singular and the plural and means and includes any individual, firm, partnership, copartnership, association, corporation, governmental subdivision or agency, or other organization or other legal entity, or any agent or servant thereof;

(30) "Property" means anything of value, including, but not limited to, money, real estate, tangible or intangible personal property, including anything severed from land, library material, contract rights, choses-in-action, interests in or claims to wealth, credit, admission or transportation tickets, captured or domestic animals, food and drink, electric or other power. Commodities of a public nature, such as gas, electricity, steam, water, cable television and telephone service constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits or other equipment is deemed a rendition of service rather than a sale or delivery of property;

(31) "Public place" means a place to which the public or a group of persons has access and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, places of business, playgrounds and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place;

(32) "Public servant" means:

(A) Any public officer or employee of the state or of any political subdivision of the state or of any governmental instrumentality within the state including, but not limited to, law enforcement officers;

(B) Any person exercising the functions of any such public officer or employee;

(C) Any person participating as an adviser, consultant or otherwise performing a governmental function, but not including witnesses or

jurors; or

(D) Any person elected, appointed or designated to become a public servant, although not yet occupying that position;

(33) "Reckless" means that a person acts recklessly with respect to circumstances surrounding the conduct or the result of the conduct when the person is aware of, but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint;

(34)(A) "Recorded device" means the tangible medium upon which sounds or images are recorded or otherwise stored;

(B) "Recorded device" includes any original phonograph record, disc, tape, audio, or videocassette, wire, film or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original;

(35) "Security guard/officer" means an individual employed to perform any function of a security guard/officer and security guard/officer patrol service as set forth in the Private Protective Services Licensing and Regulatory Act, compiled in title 62, chapter 35;

(36) "Serious bodily injury" means bodily injury that involves:

(A) A substantial risk of death;

(B) Protracted unconsciousness;

(C) Extreme physical pain;

(D) Protracted or obvious disfigurement;

(E) Protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty; or

(F) A broken bone of a child who is twelve (12) years of age or less;

(37) "Services" includes labor, skill, professional service, transportation, telephone, mail, gas, electricity, steam, water, cable television, entertainment subscription service or other public services, accommodations in hotels, restaurants or elsewhere, admissions to exhibitions, use of vehicles or other movable property, and any other activity or product considered in the ordinary course of business to be a service, regardless of whether it is listed in this subdivision (a)(37) or a specific statute exists covering the same or similar conduct; and

(38) "Value":

(A) Subject to the additional criteria of subdivisions (a)(38)(B)-(D), "value" under this title means:

(i) The fair market value of the property or service at the time and place of the offense; or

(ii) If the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the offense;

(B) The value of documents, other than those having a readily ascertainable fair market value, means:

(i) The amount due and collectible at maturity, less any part that has been satisfied, if the document constitutes evidence of a debt; or

(ii) The greatest amount of economic loss that the owner might reasonably suffer by virtue of loss of the document, if the document is other than evidence of a debt;

526

(C) If property or service has value that cannot be ascertained by the criteria set forth in subdivisions (a)(38)(A) and (B), the property or service is deemed to have a value of less than fifty dollars (\$50.00); and

(D) If the defendant gave consideration for or had a legal interest in the property or service that is the object of the offense, the amount of consideration or value of the interest shall be deducted from the value of the property or service ascertained under subdivision (a)(38)(A), (B) or (C) to determine value.

(b) The definition of a term in subsection (a) applies to each grammatical variation of the term.

39-13-102. Aggravated assault.

(a)(1) A person commits aggravated assault who:

(A) Intentionally or knowingly commits an assault as defined in § 39-13-101, and the assault:

- (i) Results in serious bodily injury to another;
- (ii) Results in the death of another;
- (iii) Involved the use or display of a deadly weapon; or
- (iv) Involved strangulation or attempted strangulation; or

(B) Recklessly commits an assault as defined in § 39-13-101(a)(1), and the assault:

- (i) Results in serious bodily injury to another;
- (ii) Results in the death of another; or
- (iii) Involved the use or display of a deadly weapon.

(2) For purposes of subdivision (a)(1)(A)(iv), “strangulation” means intentionally or knowingly impeding normal breathing or circulation of the blood by applying pressure to the throat or neck or by blocking the nose and mouth of another person, regardless of whether that conduct results in any visible injury or whether the person has any intent to kill or protractedly injure the victim.

(b) A person commits aggravated assault who, being the parent or custodian of a child or the custodian of an adult, intentionally or knowingly fails or refuses to protect the child or adult from an aggravated assault as defined in subdivision (a)(1) or aggravated child abuse as defined in § 39-15-402.

(c) A person commits aggravated assault who, after having been enjoined or restrained by an order, diversion or probation agreement of a court of competent jurisdiction from in any way causing or attempting to cause bodily injury or in any way committing or attempting to commit an assault against an individual or individuals, intentionally or knowingly attempts to cause or causes bodily injury or commits or attempts to commit an assault against the individual or individuals.

(d) [Deleted by 2018 amendment.]

(e)(1)(A) Aggravated assault under:

- (i) [Deleted by 2018 amendment.]
- (ii) Subdivision (a)(1)(A)(i), (iii), or (iv) is a Class C felony;
- (iii) Subdivision (a)(1)(A)(ii) is a Class C felony;
- (iv) Subdivision (b) or (c) is a Class C felony;
- (v) Subdivision (a)(1)(B)(i) or (iii) is a Class D felony;
- (vi) Subdivision (a)(1)(B)(ii) is a Class D felony.

(B) However, the maximum fine shall be fifteen thousand dollars (\$15,000) for an offense under subdivision (a)(1)(A) or (a)(1)(B), or subsection (c), committed against any of the following persons who are discharging or attempting to discharge their official duties:

- (i) Law enforcement officer;
- (ii) Firefighter;
- (iii) Medical fire responder;
- (iv) Paramedic;
- (v) Emergency medical technician;
- (vi) Healthcare provider;
- (vii) Any other first responder; or
- (viii) An identifiable employee or contractor of a utility.

(2) In addition to any other punishment that may be imposed for a violation of this section, if the relationship between the defendant and the victim of the assault is such that the victim is a domestic abuse victim as defined in § 36-3-601, and if, as determined by the court, the defendant possesses the ability to pay a fine in an amount not in excess of two hundred dollars (\$200), then the court shall impose a fine at the level of the defendant's ability to pay, but not in excess of two hundred dollars (\$200). The additional fine shall be paid to the clerk of the court imposing sentence, who shall transfer it to the state treasurer, who shall credit the fine to the general fund. All fines so credited to the general fund shall be subject to appropriation by the general assembly for the exclusive purpose of funding family violence shelters and shelter services. Such appropriation shall be in addition to any amount appropriated pursuant to § 67-4-411.

(3)(A) In addition to any other punishment authorized by this section, the court shall order a person convicted of aggravated assault under the circumstances set out in this subdivision (e)(3) to pay restitution to the victim of the offense. Additionally, the judge shall order the warden, chief operating officer, or workhouse administrator to deduct fifty percent (50%) of the restitution ordered from the inmate's commissary account or any other account or fund established by or for the benefit of the inmate while incarcerated. The judge may authorize the deduction of up to one hundred percent (100%) of the restitution ordered.

(B) Subdivision (e)(3)(A) applies if:

- (i) The victim of the aggravated assault is a correctional officer, guard, jailer, or other full-time employee of a penal institution, local jail, or workhouse;
- (ii) The offense occurred while the victim was in the discharge of official duties and within the victim's scope of employment; and
- (iii) The person committing the assault was at the time of the offense, and at the time of the conviction, serving a sentence of incarceration in a public or private penal institution as defined in § 39-16-601.

(4) In addition to any other punishment that may be imposed for a violation of this section, if the relationship between the defendant and the victim of the assault is such that the victim is a domestic abuse victim as defined in § 36-3-601, the court shall assess each person convicted an electronic monitoring indigency fee of ten dollars (\$10.00). All proceeds collected pursuant to this subdivision (e)(4) shall be transmitted to the treasurer for deposit in the electronic monitoring indigency fund, established in § 55-10-419.

(5) Notwithstanding this subsection (e), a person convicted of a violation of subdivision (a)(1)(A)(i), (a)(1)(A)(ii), (a)(1)(B)(i), or (a)(1)(B)(ii) shall be punished one (1) classification higher than is otherwise provided if:

(A) The violation was committed by discharging a firearm from within a motor vehicle, as defined by § 55-1-103; and

(B) The victim was a minor at the time of the violation.

39-13-103. Reckless endangerment.

(a) A person commits an offense who recklessly engages in conduct that places or may place another person in imminent danger of death or serious bodily injury.

(b)(1) Reckless endangerment is a Class A misdemeanor.

(2) Reckless endangerment committed with a deadly weapon is a Class E felony.

(3) Reckless endangerment by discharging a firearm or antique firearm into a habitation, as defined under § 39-14-401, is a Class C felony, unless the habitation was unoccupied at the time of the offense, in which event it is a Class D felony.

(4) In addition to the penalty authorized by this subsection (b), the court shall assess a fine of fifty dollars (\$50.00) to be collected as provided in § 55-10-412(b) and distributed as provided in § 55-10-412(c).

39-13-110. Female genital mutilation.

(a) As used in this section:

(1) "Facilitate" means raising, soliciting, collecting, or providing material support or resources with intent that such will be used, in whole or in part, to plan, prepare, carry out, or aid in any act of female genital mutilation or hindering the prosecution of an act of female genital mutilation or the concealment of an act of female genital mutilation;

(2) "Female genital mutilation," "mutilate," or "mutilation" means:

(A) The excision, infibulation or circumcision, in whole or in part, of the labia majora, labia minora, or clitoris of another;

(B) The narrowing of the vaginal opening through the creation of a covering seal formed by cutting and repositioning the inner or outer labia, with or without the removal of the clitoris; or

(C) Any harmful procedure to the genitalia, including pricking, piercing, incising, scraping, or cauterizing; provided, however, that body piercing, pursuant to title 62, chapter 38, part 3, when performed on a consenting adult, is not female genital mutilation;

(3) "Hindering the prosecution of female genital mutilation" includes, but is not limited to, the following:

(A) Harboring or concealing a person who is known or believed by the facilitator to be planning to commit an act of female genital mutilation;

(B) Warning a person who is known or believed by the facilitator to be planning to commit an act of female genital mutilation of impending discovery or apprehension; or

(C) Suppressing any physical evidence that might aid in the discovery or apprehension of a person who is known or believed by the facilitator to be planning to commit an act of female genital mutilation; and

(4) “Material support or resources” means currency or other financial securities, financial services, instruments of value, lodging, training, false documentation or identification, medical equipment, computer equipment, software, facilities, personnel, transportation, and other physical assets.

(b) It is an offense for a person to:

(1) Knowingly mutilate a female;

(2) Knowingly facilitate the mutilation of a female; or

(3) Knowingly transport or facilitate the transportation of a female for the purpose of mutilation.

(c) A violation of subsection (b) is a Class D felony.

(d) It shall not be a defense to prosecution for a violation of subsection (b) that a female genital mutilation procedure is:

(1) Required as a matter of belief, custom, or ritual;

(2) Consented to by the minor on whom the procedure is performed; or

(3) Consented to by the parent or legal guardian of the minor on whom the procedure is performed.

(e) A procedure is not a violation of subsection (b) if the procedure is:

(1) Necessary to the physical health of the person on whom the procedure is performed;

(2) Performed on a person who is in labor or who has just given birth for medical purposes connected with that labor or birth; or

(3) Cosmetic rejuvenation and reconstruction in accordance with the standards of the American college of obstetrics and gynecology.

(f) Any physician, physician in training, certified nurse or midwife, or any other medical professional who performs, participates in, or facilitates a female genital mutilation procedure that does not fall under an exception listed in subsection (e) shall, in addition to the criminal penalties under this section, be subject to disciplinary action by the appropriate licensing board.

(g) Nothing in this section prohibits prosecution under any other law.

(h) All property, including money, used in the course of, intended for use in the course of, derived from, or realized through, conduct in violation of subsection (b) is subject to civil forfeiture in accordance with §§ 39-11-701 — 39-11-717.

(i)(1) A victim of female genital mutilation may bring an action under this subsection (i) against a person or an entity who:

(A) Knowingly mutilated or attempted to mutilate the victim;

(B) Knowingly facilitated the victim’s mutilation; or

(C) Knowingly transported or facilitated the victim’s transportation outside of this state for the purpose of mutilation.

(2) In an action under this subsection (i), the court may award all of the following:

(A) Damages, including, but not limited to, damages or loss due to pain, suffering, inconvenience, physical impairment, physical disfigurement, loss of society and companionship, and loss of consortium;

(B) Two (2) times the amount of damages sustained; and

(C) Reasonable attorney’s fees and costs.

(3) If the victim is a minor whose legal guardian is alleged to have committed or facilitated the female genital mutilation, then a court may appoint a guardian ad litem to represent the minor.

(j) Any person or entity who knowingly commits an act of female genital mutilation, knowingly facilitates an act of female genital mutilation, or

intentionally coerces, induces, or solicits a person who commits an act of female genital mutilation, shall be liable jointly and severally for all damages, attorney's fees, and costs awarded under subsection (i).

(k)(1) Notwithstanding § 28-3-104, a victim of female genital mutilation may commence an action under this section to recover damages sustained because of the female genital mutilation at any time prior to five (5) years after the commission of the act of female genital mutilation or, if the victim was a child at the time of the act, before the victim reaches twenty-one (21) years of age, whichever occurs later.

(2) If a criminal prosecution under this section proceeds against any person who committed the act of female genital mutilation, facilitated the actions of the person who committed the act of female genital mutilation, or coerced, induced, or solicited the person who committed the act of female genital mutilation, the running of the period shall be suspended during the pendency of such prosecution.

(l) A final judgment or decree rendered in favor of the state in any criminal proceeding under this section shall preclude the defendant from denying the essential facts established in that proceeding in any subsequent civil action pursuant to chapter 268 of the Public Acts of 2019.

39-13-113. Violation of an order of protection or restraining order — Violation of no contact order.

(a) It is an offense to knowingly violate:

- (1) An order of protection issued pursuant to title 36, chapter 3, part 6; or
- (2) A restraining order issued to a victim as defined in § 36-3-601.

(b) A person violating this section may be arrested with or without a warrant as provided in § 36-3-611, and the arrest shall be conducted in accordance with the requirements of § 36-3-619.

(c) A person who is arrested for a violation of this section shall be considered within the provisions of § 40-11-150(a) and subject to the twelve-hour holding period authorized by § 40-11-150(h).

(d) After a person has been arrested for a violation of this section, the arresting officer shall inform the victim that the person has been arrested and that the person may be eligible to post bond for the offense and be released until the date of trial for the offense.

(e) Neither an arrest nor the issuance of a warrant or capias for a violation of this section in any way affects the validity or enforceability of any order of protection, restraining order, or no contact order.

(f) In order to constitute a violation of subsection (a):

- (1) The person must have received notice of the request for an order of protection or restraining order;
- (2) The person must have had an opportunity to appear and be heard in connection with the order of protection or restraining order; and
- (3) The court made specific findings of fact in the order of protection or restraining order that the person committed domestic abuse, sexual assault or stalking as defined in § 36-3-601.

(g) A violation of subsection (a) is a Class A misdemeanor. Notwithstanding § 40-35-111(e)(1), a violation of subsection (a) is punishable by a fine of not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500), and any sentence of incarceration imposed shall be served

consecutively to the sentence for any other offense that is based in whole or in part on the same factual allegations. However, the sentencing judge or magistrate may specifically order the sentences for the offenses arising out of the same facts to be served concurrently.

(h)(1) It is an offense and a violation of an order of protection for a person to knowingly possess a firearm while an order of protection that fully complies with 18 U.S.C. § 922(g)(8) is entered against that person and in effect, or any successive order of protection containing the language of § 36-3-606(f) and that fully complies with 18 U.S.C. § 922(g)(8) is entered against that person and in effect.

(2) For purposes of this subsection (h), the determination of whether a person possesses firearms shall be based upon the factors set out in § 36-3-625(f) if the firearms constitute the business inventory or are subject to the National Firearms Act, (26 U.S.C. § 5801 et seq.).

(3) A violation of this subsection (h) is a Class A misdemeanor and each violation constitutes a separate offense.

(4) If a violation of subsection (h) also constitutes a violation of § 36-3-625(h) or § 39-17-1307(f), the respondent may be charged and convicted under any or all such sections.

(i)(1) It is an offense to knowingly violate a no contact order, issued prior to a defendant's release on bond, following the defendant's arrest for any criminal offense defined in this chapter, in which the alleged victim of the offense is a domestic abuse victim as defined in § 36-3-601.

(2) A violation of subdivision (i)(1) is a Class A misdemeanor. A sentence imposed must be served consecutively to the sentence for the offense for which the defendant was originally arrested, unless the sentencing judge or magistrate specifically orders the sentences for the offenses to be served concurrently.

39-13-115. Aggravated vehicular assault.

(a) As used in this section, "prior conviction" means an offense for which the person was convicted prior to the aggravated vehicular assault charge. This definition includes prior convictions from this state or any other state, district, or territory of the United States within the last twenty (20) years.

(b) A person commits aggravated vehicular assault who:

(1)(A) Commits vehicular assault, as defined in § 39-13-106; and

(B)(i) Has two (2) or more prior convictions for driving under the influence of an intoxicant, as defined in § 55-10-401; or

(ii) Has one (1) or more prior convictions for:

(a) Vehicular assault;

(b) Vehicular homicide, as defined in § 39-13-213(a)(2); or

(c) Aggravated vehicular homicide, as defined in § 39-13-218; or

(2)(A) Had an alcohol concentration in the person's blood or breath of twenty-hundredths of one percent (0.20%) or more at the time of the offense; and

(B) Has one (1) prior conviction for driving under the influence of an intoxicant, as defined in § 55-10-401.

(c) The indictment, in a separate count, shall specify, charge, and give notice of the required prior conviction or convictions. If the person is convicted of vehicular assault under § 39-13-106, the trier-of-fact shall separately consider whether the person has the required aggravating factors necessary to commit

532

aggravated vehicular assault.

(d) For the purpose of determining if a person has sufficient aggravating factors to qualify for aggravated vehicular assault, applicable prior convictions occurring prior to July 1, 2015, may be used; provided, that the conduct constituting aggravated vehicular assault occurs on or after July 1, 2015.

(e) A violation of this section is a Class C felony, and there shall additionally be imposed a fine of not less than five thousand dollars (\$5,000) nor more than fifteen thousand dollars (\$15,000).

(f) Upon conviction for aggravated vehicular assault, the court shall prohibit the convicted person from driving a vehicle in this state pursuant to § 39-13-106(c).

39-13-204. Sentencing for first degree murder.

(a) Upon a trial for first degree murder, should the jury find the defendant guilty of first degree murder, it shall not fix punishment as part of the verdict, but the jury shall fix the punishment in a separate sentencing hearing to determine whether the defendant shall be sentenced to death, to imprisonment for life without possibility of parole, or to imprisonment for life. The separate sentencing hearing shall be conducted as soon as practicable before the same jury that determined guilt, subject to the provisions of subsection (k) relating to certain retrials on punishment.

(b) In the sentencing proceeding, the attorney for the state shall be allowed to make an opening statement to the jury and then the attorney for the defendant shall also be allowed such statement; provided, that the waiver of opening statement by one party shall not preclude the opening statement by the other party.

(c) In the sentencing proceeding, evidence may be presented as to any matter that the court deems relevant to the punishment, and may include, but not be limited to, the nature and circumstances of the crime; the defendant's character, background history, and physical condition; any evidence tending to establish or rebut the aggravating circumstances enumerated in subsection (i); and any evidence tending to establish or rebut any mitigating factors. Any such evidence that the court deems to have probative value on the issue of punishment may be received, regardless of its admissibility under the rules of evidence; provided, that the defendant is accorded a fair opportunity to rebut any hearsay statements so admitted. However, this subsection (c) shall not be construed to authorize the introduction of any evidence secured in violation of the constitution of the United States or the constitution of Tennessee. In all cases where the state relies upon the aggravating factor that the defendant was previously convicted of one (1) or more felonies, other than the present charge, whose statutory elements involve the use of violence to the person, either party shall be permitted to introduce evidence concerning the facts and circumstances of the prior conviction. Such evidence shall not be construed to pose a danger of creating unfair prejudice, confusing the issues, or misleading the jury and shall not be subject to exclusion on the ground that the probative value of the evidence is outweighed by prejudice to either party. Such evidence shall be used by the jury in determining the weight to be accorded the aggravating factor. The court shall permit a member or members, or a representative or representatives of the victim's family to testify at the sentencing hearing about the victim and about the impact of the murder on the

family of the victim and other relevant persons. The evidence may be considered by the jury in determining which sentence to impose. The court shall permit members or representatives of the victim's family to attend the trial, and those persons shall not be excluded because the person or persons shall testify during the sentencing proceeding as to the impact of the offense.

(d) In the sentencing proceeding, the state shall be allowed to make a closing argument to the jury; and then the attorney for the defendant shall also be allowed such argument, with the state having the right of closing.

(e)(1) After closing arguments in the sentencing hearing, the trial judge shall include instructions for the jury to weigh and consider any of the statutory aggravating circumstances set forth in subsection (i), which may be raised by the evidence at either the guilt or sentencing hearing, or both. The trial judge shall also include instructions for the jury to weigh and consider any mitigating circumstances raised by the evidence at either the guilt or sentencing hearing, or both, which shall include, but not be limited to, those circumstances set forth in subsection (j). These instructions and the manner of arriving at a sentence shall be given in the oral charge and in writing to the jury for its deliberations. However, a reviewing court shall not set aside a sentence of death or of imprisonment for life without the possibility of parole on the ground that the trial court did not specifically instruct the jury as to a requested mitigating factor that is not enumerated in subsection (j).

(2) The trial judge shall provide the jury three (3) separate verdict forms, as specified by subdivisions (f)(1), (f)(2), and (g)(2)(B). The jury shall be instructed that a defendant who receives a sentence of imprisonment for life shall not be eligible for parole consideration until the defendant has served at least twenty-five (25) full calendar years of the sentence. The jury shall also be instructed that a defendant who receives a sentence of imprisonment for life without possibility of parole shall never be eligible for release on parole.

(f)(1) If the jury unanimously determines that no statutory aggravating circumstance has been proven by the state beyond a reasonable doubt, the sentence shall be imprisonment for life. The jury shall then return its verdict to the judge upon a form provided by the court, which may appear substantially as follows:

PUNISHMENT OF IMPRISONMENT FOR LIFE

We, the jury, unanimously determine that no statutory aggravating circumstance has been proven by the state beyond a reasonable doubt. We, the jury, therefore find that the sentence shall be imprisonment for life.

/s/ _____ Jury Foreperson	/s/ _____ Juror
/s/ _____ Juror	/s/ _____ Juror
/s/ _____ Juror	/s/ _____ Juror
/s/ _____ Juror	/s/ _____ Juror
/s/ _____ Juror	/s/ _____ Juror

534

/s/ _____
Juror

/s/ _____
Juror

(2) If the jury unanimously determines that a statutory aggravating circumstance or circumstances have been proven by the state beyond a reasonable doubt, but that such circumstance or circumstances have not been proven by the state to outweigh any mitigating circumstance or circumstances beyond a reasonable doubt, the jury shall, in its considered discretion, sentence the defendant either to imprisonment for life without possibility of parole or to imprisonment for life. The trial judge shall instruct the jury that, in choosing between the sentences of imprisonment for life without possibility of parole and imprisonment for life, the jury shall weigh and consider the statutory aggravating circumstance or circumstances proven by the state beyond a reasonable doubt and any mitigating circumstance or circumstances. In its verdict, the jury shall specify the statutory aggravating circumstance or circumstances proven by the state beyond a reasonable doubt and shall return its verdict to the judge upon a form provided by the court, which may appear substantially as follows:

**PUNISHMENT OF IMPRISONMENT FOR LIFE WITHOUT POSSIBILITY
OF PAROLE OR IMPRISONMENT FOR LIFE**

We, the jury, unanimously find that the state has proven the following listed statutory aggravating circumstance or circumstances beyond a reasonable doubt:

[Here list the statutory aggravating circumstance or circumstances so found.]

We, the jury, unanimously find that such statutory aggravating circumstance or circumstances do not outweigh any mitigating circumstance or circumstances beyond a reasonable doubt; therefore:

CHECK ONE (1) BOX ONLY

☐ We, the jury, unanimously agree that the defendant shall be sentenced to imprisonment for life without possibility of parole; or

☐ We, the jury, unanimously agree that the defendant shall be sentenced to imprisonment for life.

/s/ _____
Jury Foreperson
/s/ _____
Juror
/s/ _____
Juror
/s/ _____
Juror
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Juror

(g)(1) The sentence shall be death, if the jury unanimously determines that:

(A) At least one (1) statutory aggravating circumstance or several statutory aggravating circumstances have been proven by the state

beyond a reasonable doubt; and

(B) Such circumstance or circumstances have been proven by the state to outweigh any mitigating circumstances beyond a reasonable doubt.

(2)(A) If the death penalty is the sentence of the jury, the jury shall:

(i) Reduce to writing the statutory aggravating circumstance or statutory aggravating circumstances so found; and

(ii) Signify that the state has proven beyond a reasonable doubt that the statutory aggravating circumstance or circumstances outweigh any mitigating circumstances.

(B) These findings and verdict shall be returned to the judge upon a form provided by the court, which may appear substantially as follows:

PUNISHMENT OF DEATH

We, the jury, unanimously find the following listed statutory aggravating circumstance or circumstances:

[Here list the statutory aggravating circumstance or circumstances so found.]

We, the jury, unanimously find that the state has proven beyond a reasonable doubt that the statutory aggravating circumstance or circumstances outweigh any mitigating circumstances.

Therefore, we, the jury, unanimously find that the punishment shall be death.

/s/ _____ Jury Foreperson	/s/ _____ Juror
/s/ _____ Juror	/s/ _____ Juror
/s/ _____ Juror	/s/ _____ Juror
/s/ _____ Juror	/s/ _____ Juror
/s/ _____ Juror	/s/ _____ Juror
/s/ _____ Juror	/s/ _____ Juror

(h) If the jury cannot ultimately agree on punishment, the trial judge shall inquire of the foreperson of the jury whether the jury is divided over imposing a sentence of death. If the jury is divided over imposing a sentence of death, the judge shall instruct the jury that in further deliberations, the jury shall only consider the sentences of imprisonment for life without possibility of parole and imprisonment for life. If, after further deliberations, the jury still cannot agree as to sentence, the trial judge shall dismiss the jury and the judge shall impose a sentence of imprisonment for life. The judge shall not instruct the jury, nor shall the attorneys be permitted to comment at any time to the jury, on the effect of the jury's failure to agree on a punishment.

(i) No death penalty or sentence of imprisonment for life without possibility of parole shall be imposed, except upon a unanimous finding that the state has proven beyond a reasonable doubt the existence of one (1) or more of the statutory aggravating circumstances, which are limited to the following:

(1) The murder was committed against a person less than twelve (12) years of age and the defendant was eighteen (18) years of age or older;

(2) The defendant was previously convicted of one (1) or more felonies, other than the present charge, whose statutory elements involve the use of violence to the person;

(3) The defendant knowingly created a great risk of death to two (2) or more persons, other than the victim murdered, during the act of murder;

(4) The defendant committed the murder for remuneration or the promise of remuneration, or employed another to commit the murder for remuneration or the promise of remuneration;

(5) The murder was especially heinous, atrocious, or cruel, in that it involved torture or serious physical abuse beyond that necessary to produce death;

(6) The murder was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or prosecution of the defendant or another;

(7) The murder was knowingly committed, solicited, directed, or aided by the defendant, while the defendant had a substantial role in committing or attempting to commit, or was fleeing after having a substantial role in committing or attempting to commit, any first degree murder, arson, rape, robbery, burglary, theft, kidnapping, aggravated child abuse, aggravated child neglect, rape of a child, aggravated rape of a child, aircraft piracy, or unlawful throwing, placing or discharging of a destructive device or bomb;

(8) The murder was committed by the defendant while the defendant was in lawful custody or in a place of lawful confinement or during the defendant's escape from lawful custody or from a place of lawful confinement;

(9) The murder was committed against any law enforcement officer, corrections official, corrections employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic or firefighter, who was engaged in the performance of official duties, and the defendant knew or reasonably should have known that the victim was a law enforcement officer, corrections official, corrections employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic or firefighter engaged in the performance of official duties;

(10) The murder was committed against any present or former judge, district attorney general or state attorney general, assistant district attorney general or assistant state attorney general, due to or because of the exercise of the victim's official duty or status and the defendant knew that the victim occupied such office;

(11) The murder was committed against a national, state, or local popularly elected official, due to or because of the official's lawful duties or status, and the defendant knew that the victim was such an official;

(12) The defendant committed "mass murder," which is defined as the murder of three (3) or more persons, whether committed during a single criminal episode or at different times within a forty-eight-month period;

(13) The defendant knowingly mutilated the body of the victim after death;

(14) The victim of the murder was seventy (70) years of age or older; or the victim of the murder was particularly vulnerable due to a significant disability, whether mental or physical, and at the time of the murder the defendant knew or reasonably should have known of such disability;

(15) The murder was committed in the course of an act of terrorism;

(16) The murder was committed against a pregnant woman, and the defendant intentionally killed the victim, knowing that she was pregnant;

(17) The murder was committed at random and the reasons for the killing are not obvious or easily understood; or

(18) The defendant knowingly sold or distributed a substance containing fentanyl, carfentanil, or any other opiate listed in § 39-17-408(c) with the intent and premeditation to commit murder.

(j) In arriving at the punishment, the jury shall consider, pursuant to this section, any mitigating circumstances, which shall include, but are not limited to, the following:

(1) The defendant has no significant history of prior criminal activity;

(2) The murder was committed while the defendant was under the influence of extreme mental or emotional disturbance;

(3) The victim was a participant in the defendant's conduct or consented to the act;

(4) The murder was committed under circumstances that the defendant reasonably believed to provide a moral justification for the defendant's conduct;

(5) The defendant was an accomplice in the murder committed by another person and the defendant's participation was relatively minor;

(6) The defendant acted under extreme duress or under the substantial domination of another person;

(7) The youth or advanced age of the defendant at the time of the crime;

(8) The capacity of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of the law was substantially impaired as a result of mental disease or defect or intoxication, which was insufficient to establish a defense to the crime but which substantially affected the defendant's judgment; and

(9) Any other mitigating factor that is raised by the evidence produced by either the prosecution or defense, at either the guilt or sentencing hearing.

(k) Upon motion for a new trial, after a conviction of first degree murder, if the court finds error in the trial determining guilt, a new trial on both guilt and sentencing shall be held; but if the court finds error alone in the trial determining punishment, a new trial on the issue of punishment alone shall be held by a new jury empanelled for that purpose. If the trial court, or any other court with jurisdiction to do so, orders that a defendant convicted of first degree murder, whether the sentence is death, imprisonment for life without possibility of parole or imprisonment for life, be granted a new trial, either as to guilt or punishment, or both, the new trial shall include the possible punishments of death, imprisonment for life without possibility of parole or imprisonment for life.

39-13-206. Appeal and review of death sentence.

(a)(1) Whenever the death penalty is imposed for first degree murder and when the judgment has become final in the trial court, the Tennessee supreme court shall automatically review the conviction and the sentence of death. Upon the conviction becoming final in the trial court, the clerk shall docket the case in the supreme court and the case shall proceed in accordance with the Tennessee Rules of Appellate Procedure.

(2) If the defendant has been convicted of first degree murder and sentenced to death, the record as to guilt and sentence shall be expeditiously filed with the Tennessee supreme court within the time limit provision of Tennessee Rules of Appellate Procedure, Rules 24 and 25. If the defendant has been convicted of other crimes at the same trial where a death sentence is imposed, the Tennessee supreme court shall have authority to review by direct appeal the other crimes, if appealed by the defendant with the conviction of first degree murder and sentence of death.

(b) The appeal of the conviction of first degree murder and the review of the sentence of death shall have priority over all other cases and shall be heard according to the rules promulgated by the Tennessee supreme court. The Tennessee supreme court shall first consider any errors assigned and then the court shall review the sentence of death.

(c)(1) In reviewing the sentence of death for first degree murder, the Tennessee supreme court shall determine whether:

(A) The sentence of death was imposed in any arbitrary fashion;

(B) The evidence supports the jury's finding of statutory aggravating circumstance or circumstances;

(C) The evidence supports the jury's finding that the aggravating circumstance or circumstances outweigh any mitigating circumstances; and

(D) The sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the nature of the crime and the defendant.

(2) The Tennessee supreme court may promulgate rules as it deems appropriate to establish such procedures as are necessary to enable it to properly review the death sentence.

(d) In addition to its other authority regarding correction of errors, the Tennessee supreme court, in reviewing the death sentence for first degree murder, is authorized to:

(1) Affirm the sentence of death; or

(2) Modify the punishment to imprisonment for life without possibility of parole or imprisonment for life.

(e) In the event that any provision of §§ 39-13-202 — 39-13-205 or this section, or the application of the sections, to any individual or circumstance is held to be invalid or unconstitutional so as to permanently preclude a sentence of death as to that individual, the court having jurisdiction over the individual previously sentenced to death shall cause the individual to be brought before the proper court, which shall, following a sentencing hearing conducted in accordance with § 39-13-207, sentence the person to imprisonment for life without possibility of parole or imprisonment for life.

39-13-209. Sentencing where violation was committed by discharging firearm from within motor vehicle and victim was minor.

(a) Notwithstanding this part, a person convicted of a violation of § 39-13-211, § 39-13-212, or § 39-13-215 shall be punished one (1) classification higher than is otherwise provided if the violation occurred as provided in subsection (b).

(b) This section applies if:

(1) The violation was committed by discharging a firearm from within a

- motor vehicle, as defined by § 55-1-103; and
(2) The victim was a minor at the time of the violation.

39-13-217. Priority in case docketing.

The trial courts of this state and the Tennessee supreme court shall give first priority in docketing to cases where the state has given notice of intent to seek the death penalty pursuant to Rule 12.3(b) of the Rules of Criminal Procedure, or the defendant has been sentenced to death.

39-13-309. Trafficking for commercial sex act.

(a) A person commits the offense of trafficking a person for a commercial sex act who:

- (1) Knowingly subjects, attempts to subject, benefits from, or attempts to benefit from another person's provision of a commercial sex act;
- (2) Recruits, entices, harbors, transports, provides, purchases, or obtains by any other means, another person for the purpose of providing a commercial sex act; or
- (3) Commits the acts in this subsection (a) when the intended victim of the offense is a law enforcement officer or a law enforcement officer eighteen (18) years of age or older posing as a minor.

(b) For purposes of subdivision (a)(2), such means may include, but are not limited to:

- (1) Causing or threatening to cause physical harm to the person;
- (2) Physically restraining or threatening to physically restrain the person;
- (3) Abusing or threatening to abuse the law or legal process;
- (4) Knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of the person;
- (5) Using blackmail or using or threatening to cause financial harm for the purpose of exercising financial control over the person; or
- (6) Facilitating or controlling a person's access to a controlled substance.

(c) A violation of subsection (a) is a Class B felony, except where the victim of the offense is a child under fifteen (15) years of age, or where the offense occurs on the grounds or facilities or within one thousand feet (1,000') of a public or private school, secondary school, preschool, child care agency, public library, recreational center, or public park, a violation of subsection (a) is a Class A felony.

(d) It is not a defense to a violation of this section that:

- (1) The intended victim of the offense is a law enforcement officer;
- (2) The victim of the offense is a minor who consented to the act or acts constituting the offense; or
- (3) The solicitation was unsuccessful, the conduct solicited was not engaged in, or the law enforcement officer could not engage in the solicited offense.

39-13-511. Indecent exposure.

(a)(1) A person commits the offense of indecent exposure who:

- (A) In a public place or on the private premises of another, or so near

thereto as to be seen from the private premises:

(i) Intentionally:

(a) Exposes the person's genitals or buttocks to another; or

(b) Engages in sexual contact or sexual penetration as defined in § 39-13-501; and

(ii) Reasonably expects that the acts will be viewed by another and the acts:

(a) Will offend an ordinary viewer; or

(b) Are for the purpose of sexual arousal and gratification of the defendant; or

(B)(i) Knowingly invites, entices or fraudulently induces the child of another into the person's residence for the purpose of attaining sexual arousal or gratification by intentionally engaging in the following conduct in the presence of the child:

(a) Exposure of such person's genitals, buttocks or female breasts;

or

(b) Masturbation; or

(ii) Knowingly engages in the person's own residence, in the intended presence of any child, for the defendant's sexual arousal or gratification the following intentional conduct:

(a) Exposure of the person's genitals, buttocks or female breasts; or

(b) Masturbation.

(2) No prosecution shall be commenced for a violation of subdivision (a)(1)(B)(ii)(a) based solely upon the uncorroborated testimony of a witness who shares with the accused any of the relationships described in § 36-3-601(5).

(3) For subdivision (a)(1)(B)(i) or (a)(1)(B)(ii) to apply, the defendant must be eighteen (18) years of age or older and the child victim must be less than thirteen (13) years of age.

(b)(1) "Indecent exposure," as defined in subsection (a), is a Class B misdemeanor, unless subdivision (b)(2), (b)(3) or (b)(4) applies.

(2) If the defendant is eighteen (18) years of age or older and the victim is under thirteen (13) years of age, indecent exposure is a Class A misdemeanor.

(3) If the defendant is eighteen (18) years of age or older and the victim is under thirteen (13) years of age, and the defendant has any combination of two (2) or more prior convictions under this section or § 39-13-517, or is a sexual offender, violent sexual offender or violent juvenile sexual offender, as defined in § 40-39-202, the offense is a Class E felony.

(4) If the defendant is eighteen (18) years of age or older and the victim is under thirteen (13) years of age, and the offense occurs on the property of any public school, private or parochial school, licensed day care center or other child care facility during a time at which a child or children are likely to be present on the property, the offense is a Class E felony.

(c)(1) A person confined in a penal institution, as defined in § 39-16-601, commits the offense of indecent exposure who with the intent to abuse, torment, harass or embarrass a guard or staff member:

(A) Intentionally exposes the person's genitals or buttocks to the guard or staff member; or

(B) Engages in sexual contact as defined in § 39-13-501.

(2) For purposes of this subsection (c):

(A) “Guard” means any sheriff, jailer, guard, correctional officer, or other authorized personnel charged with the custody of the person; and

(B) “Staff member” means any other person employed by a penal institution or who performs ongoing services in a penal institution, including, but not limited to, clergy, educators, and medical professionals.

(3) Notwithstanding subsection (b), a violation of this subsection (c) is a Class A misdemeanor.

(d) This section does not apply to a mother who is breastfeeding her child in any location, public or private.

(e) As used in this section, “public place” means a place to which the public or a group of persons has access and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, places of business, playgrounds and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and a restroom, locker room, dressing room, or shower, designated for multi-person, single-sex use. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place.

39-13-514. Patronizing prostitution — Unacceptable defenses.

(a) A person commits an offense under this section:

(1) Who patronizes prostitution; or

(2) When a person patronizes prostitution where the subject of the offense is a law enforcement officer or a law enforcement officer eighteen (18) years of age or older posing as a minor.

(b)(1) Patronizing prostitution is a Class A misdemeanor.

(2) Patronizing prostitution within one and one-half (1.5) miles of a school shall, in addition to any other authorized punishment, be punished by no less than seven (7) days of incarceration and by a fine of not less than one thousand dollars (\$1,000).

(3)(A) Patronizing prostitution from a person who is younger than eighteen (18) years of age or has an intellectual disability is punishable as trafficking for commercial sex acts under § 39-13-309.

(B) Nothing in this subdivision (b)(3) shall be construed as prohibiting prosecution under any other applicable law.

(c) As used in subsection (b), “school” means all public and private schools that conduct classes in any grade from kindergarten through grade twelve (K-12).

(d) It is not a defense to a violation of this section that:

(1) The subject of the offense is a law enforcement officer;

(2) The victim of the offense is a minor and consented to the offense; or

(3) The solicitation was unsuccessful, the conduct solicited was not engaged in, or the law enforcement officer could not engage in the solicited offense.

39-13-515. Promoting prostitution – Unacceptable defenses.

(a) A person commits an offense under this section:

(1) Who promotes prostitution; or

(2) Who promotes prostitution where the subject of the offense is a law enforcement officer or is a law enforcement officer eighteen (18) years of age or older posing as a minor.

(b) Except as provided in subsection (c), promoting prostitution is a Class E

542

felony.

(c) Promoting prostitution is punishable as:

(1) Trafficking for a commercial sex act under § 39-13-309 if the person being promoted is less than eighteen (18) years of age; or

(2) A Class D felony if the person being promoted has an intellectual disability as defined in § 33-1-101.

(d) It is not a defense to a violation of this section that:

(1) The subject of the offense is a law enforcement officer;

(2) The victim of the offense is a minor and consented to the offense; or

(3) The solicitation was unsuccessful, the conduct solicited was not engaged in, or a law enforcement officer could not engage in the solicited offense.

39-13-530. Forfeiture of any conveyance or real or personal property used in a sexual offense committed against minors — Child abuse fund.

(a)(1) Any conveyance or real or personal property used in the commission of an offense under this part, is subject to judicial forfeiture under chapter 11, part 7 of this title; provided, however, that the offense is committed against a person under eighteen (18) years of age and was committed on or after July 1, 2006.

(2) Any conveyance or personal property used in the commission of a violation of § 40-39-211 committed on or after July 1, 2012, by a sexual offender or violent sex offender, as defined in § 40-39-202, whose victim was a minor, is, upon conviction, subject to judicial forfeiture as provided in chapter 11, part 7 of this title.

(b) The proceeds from all forfeitures made pursuant to this section shall be transmitted to the general fund, where there is established a general fund reserve to be allocated through the general appropriations act, which shall be known as the child abuse fund. Moneys from the fund shall be expended to fund activities authorized by this section. Any revenues deposited in this reserve shall remain in the reserve until expended for purposes consistent with this section, and shall not revert to the general fund at the end of the fiscal year. Any excess revenues or interest earned by the revenues shall not revert at the end of the fiscal year, but shall remain available for appropriation in subsequent fiscal years. Any appropriation from the reserve shall not revert to the general fund at the end of the fiscal year, but shall remain available for expenditure in subsequent fiscal years.

(c) The general assembly shall appropriate, through the general appropriations act, fifty percent (50%) of the moneys from the child abuse fund to the department of finance and administration for the child advocacy center fund to be used for child advocacy centers. The appropriations shall be specifically earmarked for the purposes set out in subsection (d).

(d) All moneys appropriated from the child advocacy center fund shall be used exclusively by the department to provide grants to child advocacy centers that are incorporated as a not-for-profit organization, are tax-exempt under § 501 of the Internal Revenue Code, and that have provided child advocacy services for at least six (6) months prior to the application for funds under this subsection (d). The commissioner of finance and administration shall promulgate rules and regulations in accordance with the Uniform Administrative

Procedures Act, compiled in title 4, chapter 5, for the distribution and use of the grant funds provided by it. The grants shall be for the purpose of providing funding for the continuation of existing programs and services, the creation of new programs and services and the training of personnel in child advocacy centers.

(e) The general assembly shall appropriate, through the general appropriations act, twenty-five percent (25%) of the moneys from the child abuse fund to the department of finance and administration for the court appointed special advocate (CASA) fund. The appropriations shall be specifically earmarked for the purposes set out in subsection (f).

(f) All moneys appropriated from the CASA fund shall be used exclusively by the department to provide grants to CASA programs that are incorporated as a not-for-profit organization, are tax-exempt under § 501 of the Internal Revenue Code and that have provided CASA services for at least six (6) months prior to the application for funds under this subsection (f). The commissioner of finance and administration shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act for the distribution and use of the grant funds provided by it. The grants shall be for the purpose of providing funding for the continuation of existing programs and services, the creation of new programs and services and the training of personnel and volunteers in CASA programs.

(g) The general assembly shall appropriate, through the general appropriations act, twenty-five percent (25%) of the moneys from the child abuse fund to the department of finance and administration for the child abuse prevention fund. The appropriations shall be specifically earmarked for the purposes set out in subsection (h).

(h) All moneys appropriated from the child abuse prevention fund shall be used exclusively by the department to provide a grant to Prevent Child Abuse Tennessee; provided, that it is incorporated as a not-for-profit organization, is tax-exempt under § 501 of the Internal Revenue Code (26 U.S.C. § 501), and that it has provided child abuse prevention services for at least six (6) months prior to the application for funds under this subsection (h). The commissioner of finance and administration shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act for the distribution and use of the grant funds provided by it. The grants shall be for the purpose of providing funding for the continuation of existing programs and services, the creation of new programs and services and the training of personnel to plan and carry out a comprehensive statewide child abuse prevention program that includes emphasis on primary and secondary prevention strategies and includes evaluation strategies to assess the effectiveness of prevention activities.

(i) All recipients of funding from the child abuse fund and its subsidiary funds, the child advocacy centers fund, the CASA fund and the child abuse prevention fund, shall collaborate with each other and also with the department of children's services, the department of children's services' child abuse prevention advisory committee, the child sexual abuse task force established by § 37-1-603(b)(1), the commission on children and youth, the governor's office of children's care coordination, and other appropriate state and local service providers in the planning and implementation of multi-disciplinary, multi-agency approaches to address child abuse, including primary, secondary and tertiary child abuse prevention, investigation and intervention in child abuse cases, and needed treatment and timely permanency for victims of child

544

abuse.

(j) All recipients of funding from the child abuse fund and its subsidiary funds, the child advocacy centers fund, the CASA fund and the child abuse prevention fund, shall report annually to the health and welfare and judiciary committees of the senate, the committee of the house of representatives having oversight over children and families, and the fiscal review committee, regarding their use of child abuse fund moneys, their collaborative efforts to address the spectrum of child abuse issues, and their recommendations for additional improvements in the child abuse prevention and response system in Tennessee.

39-13-531. Aggravated rape of a child.

(a) Aggravated rape of a child is the unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if the victim is three (3) years of age or less.

(b)(1) Aggravated rape of a child is a Class A felony.

(2) The applicable sentencing provisions of title 40, chapter 35, apply to the offense prohibited by this section except:

(A) A sentencing hearing shall not be conducted as required by § 40-35-209; and

(B) After a defendant is found guilty of aggravated rape of a child, the judge shall sentence the defendant to imprisonment for life without the possibility of parole.

39-13-611. Aggravated unlawful photographing of minor.

(a) A person commits the offense of aggravated unlawful photographing when the person knowingly photographs, or causes to be photographed a minor, when the minor has a reasonable expectation of privacy, if the photograph:

(1) Depicts the minor in a state of nudity; and

(2) Was taken for the purpose of sexual arousal or gratification of the defendant.

(b) As used in this section:

(1) "Nudity" has the meaning given in § 39-17-901; and

(2) "Photograph" has the meaning given in § 39-13-605.

(c) A violation of subsection (a) is a Class C felony.

(d) Nothing in this section shall preclude the state from electing to prosecute conduct in violation of this section under any other applicable section, including chapter 17, parts 9 and 10 of this title.

39-13-903. Unlawful capture of image with intent to conduct surveillance a misdemeanor offense — Defense.

(a) Subject to the exceptions set forth in § 39-13-902(a), a person commits an offense if the person:

(1) Uses an unmanned aircraft to capture an image of an individual or privately owned real property in this state with the intent to conduct surveillance on the individual or property captured in the image;

(2) Knowingly uses an image in a manner prohibited by § 39-13-902(b);

(3) Without the venue owner or operator's consent, uses an unmanned aircraft to intentionally capture an image of an individual or event at, or drop any item or substance into, an open-air event venue wherein more than one hundred (100) individuals are gathered for a ticketed event;

(4)(A) Knowingly uses an unmanned aircraft within or over a designated fireworks discharge site, fireworks display site, or fireworks fallout area during an event as defined in § 68-104-202, without the consent of the owner or operator of the event; and

(B) For purposes of this subdivision (a)(4):

(i) "Discharge site" means the area immediately surrounding the fireworks mortars used for an outdoor fireworks display;

(ii) "Display site" means the immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance from mortars to spectator viewing areas, but not including the spectator viewing areas or vehicle parking areas; and

(iii) "Fallout area" means the designated area in which hazardous debris is intended to fall after a pyrotechnic device, including display fireworks, is fired;

(5) Knowingly uses an unmanned aircraft over the grounds of a correctional facility; or

(6)(A) Without the business operator's written consent, knowingly uses an unmanned aircraft within two hundred fifty feet (250') of the perimeter of any critical infrastructure facility for the purpose of conducting surveillance of, gathering evidence or collecting information about, or photographically or electronically recording, critical infrastructure data;

(B) As used in this subdivision (a)(6), "critical infrastructure facility" means:

(i) An electrical power generation system; electrical transmission system, either as a whole system or any individual component of the transmission system; or electrical distribution substation;

(ii) A petroleum refinery;

(iii) A manufacturing facility that utilizes any hazardous substance, as defined in § 68-131-102, either in storage or in the process of manufacturing;

(iv) A chemical or rubber manufacturing facility;

(v) A petroleum or chemical storage facility;

(vi) A water or wastewater treatment facility;

(vii) Any facility, equipment, or pipeline infrastructure utilized in the storage, transmission, or distribution of natural gas or propane;

(viii) Railroad yards and facilities not open to the general public; and

(ix) A communication service facility;

(C) This subdivision (a)(6) shall not prohibit an unmanned aircraft system from operating for commercial purposes in compliance with authorization granted by the Federal Aviation Administration.

(b)(1) An offense under subdivisions (a)(1)-(5) is a Class C misdemeanor.

(2) An offense under subdivision (a)(6) is a Class E felony.

(c) It is a defense to prosecution under this section that the person destroyed the image:

(1) As soon as the person had knowledge that the image was captured in violation of this section; and

546

(2) Without disclosing, displaying, or distributing the image to a third party.

39-14-105. Grading of theft.

(a) Theft of property or services is:

(1) A Class A misdemeanor if the value of the property or services obtained is one thousand dollars (\$1,000) or less;

(2) A Class E felony if the value of the property or services obtained is more than one thousand dollars (\$1,000) but less than two thousand five hundred dollars (\$2,500);

(3) A Class D felony if the value of the property or services obtained is two thousand five hundred dollars (\$2,500) or more but less than ten thousand dollars (\$10,000);

(4) A Class C felony if the value of the property or services obtained is ten thousand dollars (\$10,000) or more but less than sixty thousand dollars (\$60,000);

(5) A Class B felony if the value of the property or services obtained is sixty thousand dollars (\$60,000) or more but less than two hundred fifty thousand dollars (\$250,000); and

(6) A Class A felony if the value of the property or services obtained is two hundred fifty thousand dollars (\$250,000) or more.

(b)(1) In a prosecution for theft of property, theft of services, and any offense for which the punishment is determined pursuant to this section, the state may charge multiple criminal acts committed against one (1) or more victims as a single count if the criminal acts arise from a common scheme, purpose, intent or enterprise.

(2) The monetary value of property from multiple criminal acts which are charged in a single count of theft of property shall be aggregated to establish value under this section.

(c) Venue in a prosecution for any offense punishable pursuant to this section shall be in the county where one (1) or more elements of the offense occurred, or in the county where an act of solicitation, inducement, offer, acceptance, delivery, storage, or financial transaction occurred involving the property, service or article of the victim.

(d) Notwithstanding subsection (a), theft of a firearm shall be punished by confinement for not less than thirty (30) days in addition to any other penalty authorized by law.

39-14-203. Cock and animal fighting — Cock fighting paraphernalia.

(a) It is unlawful for any person to:

(1) Own, possess, keep, use or train any bull, bear, dog, cock, swine or other animal, for the purpose of fighting, baiting or injuring another such animal, for amusement, sport or gain;

(2) Cause, for amusement, sport or gain, any animal referenced in subdivision (a)(1) to fight, bait or injure another animal, or each other;

(3) Permit any acts stated in subdivisions (a)(1) and (2) to be done on any premises under the person's charge or control, or aid or abet those acts;

(4) Be knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition for the fighting, baiting or injuring of any animal, with the intent to be present at the exhibition,

fighting, baiting or injuring;

(5) Knowingly cause a person under eighteen (18) years of age to attend an animal fight; or

(6) Possess, own, buy, sell, transfer, or manufacture cock fighting paraphernalia with the intent that the paraphernalia be used in promoting, facilitating, training for, or furthering cock fighting.

(b) It is the legislative intent that this section shall not apply to the training or use of hunting dogs for sport or to the training or use of dogs for law enforcement purposes.

(c)(1) Except for any offense involving a cock, an offense under subdivisions (a)(1)-(3) is a Class E felony.

(2) An offense involving a cock under subdivisions (a)(1)-(3) is a Class A misdemeanor.

(d)(1) A violation of subdivision (a)(4) or (a)(6) is a Class A misdemeanor.

(2) A violation of subdivision (a)(5) is a Class A misdemeanor. Notwithstanding § 40-35-111(e)(1), the fine for a violation of subdivision (a)(5) shall be not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500).

(e) It is not an offense to own, possess or keep cocks, or aid or abet the ownership, possession or keeping of cocks, for the sole purpose of selling or transporting cocks to a location in which possession or keeping of cocks is legal, as long as it does not violate any other part of this section or federal law.

(f)(1) For purposes of this section, “cock fighting paraphernalia” means gaffs, slashers, heels, or any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.

(2) In determining whether a particular object is cock fighting paraphernalia, the court or other authority making that determination may, in addition to all other logically relevant factors, consider the following:

(A) Statements by the owner or anyone in control of the object concerning its use;

(B) Prior convictions, if any, of the owner or of anyone in control of the object for violation of any state or federal law relating to cock fighting or any other violation of this part;

(C) The presence and condition of any animal on the same property;

(D) Instructions, oral or written, provided with the object concerning its use;

(E) Descriptive materials accompanying the object that explain or depict its use;

(F) The manner in which the object is displayed for sale;

(G) The existence and scope of legitimate uses for the object in the community; and

(H) Expert testimony concerning its use.

39-14-411. Critical infrastructure vandalism.

(a) A person who knowingly destroys, injures, interrupts, or interferes with critical infrastructure or its operation commits the offense of critical infrastructure vandalism.

(b) As used in this section, “critical infrastructure” includes, but is not limited to, the infrastructure of the following services to the general public:

(1) Telephone, telegraph, television, internet, or other telecommunication

548

services;

(2) Electric, heat, natural gas, or other power or energy services;

(3) The distribution of crude or refined liquid petroleum products or natural gas, and the pipelines, pumping stations, terminals, and equipment necessary for operation of the facility;

(4) Water, wastewater, or sewer services; and

(5) Railroads and other transportation services.

(c) The critical infrastructure of a utility or company is included in this section whether the critical infrastructure is in operation, idle, or under construction.

(d) A violation of this section shall be punished as theft under § 39-14-103, and graded in accordance with § 39-14-105. However, in no event shall punishment for a violation of this section be less than a Class E felony.

39-15-210. Child Rape Protection Act of 2006.

(a) This section shall be known and may be cited as the “Child Rape Protection Act of 2006.”

(b)(1) When a physician has reasonable cause to report the sexual abuse of a minor pursuant to § 37-1-605, because the physician has been requested to perform an abortion on a minor who is less than thirteen (13) years of age, the physician shall, at the time of the report, also notify the official to whom the report is made of the date and time of the scheduled abortion and that a sample of the embryonic or fetal tissue extracted during the abortion will be preserved and available to be turned over to the appropriate law enforcement officer conducting the investigation into the rape of the minor.

(2) If a minor who is at least thirteen (13) but no more than seventeen (17) years of age requests a physician to perform an abortion and the physician has reasonable cause to believe there is child sexual abuse involved as defined by § 37-1-602, the physician shall report the abuse pursuant to § 37-1-605. This subdivision (b)(2) shall apply only when a physician performs elective abortion services as a part of their practice.

(c)(1) In the transmission of the embryonic or fetal tissue sample to the appropriate law enforcement officer, in order to protect the identity and privacy of the minor, all identifying information concerning the minor shall be treated as confidential and shall not be released to anyone other than the investigating and prosecuting authorities directly involved in the case of the particular minor.

(2) Where the minor has obtained a judicial waiver of the parental notification requirements pursuant to title 37, chapter 10, part 3, confidentiality shall be maintained as provided in that part.

(d) It is an offense for a physician licensed or certified under title 63, chapter 6 or 9, or other person to knowingly fail to comply with this section or any rule or regulation adopted pursuant to this section.

(1) A first violation of this section is a civil penalty to be assessed by the provider’s health related board of not less than five hundred dollars (\$500);

(2) A second violation of this section is a civil penalty to be assessed by the provider’s health related board of not less than one thousand dollars (\$1,000); and

(3) A third or subsequent violation of this section is a Class A misdemeanor.

(e) If the person performing the abortion is a physician licensed or certified

under title 63, chapter 6 or 9, the violation constitutes unprofessional conduct. The conduct subjects the physician, in addition to the penalties set out in subsection (d), to disciplinary action.

39-15-213. Criminal abortion — Affirmative defense. [Contingent effective date, see Notes.]

(a) As used in this section:

(1) “Abortion” means the use of any instrument, medicine, drug, or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus;

(2) “Fertilization” means that point in time when a male human sperm penetrates the zona pellucida of a female human ovum;

(3) “Pregnant” means the human female reproductive condition of having a living unborn child within her body throughout the entire embryonic and fetal stages of the unborn child from fertilization until birth; and

(4) “Unborn child” means an individual living member of the species, homo sapiens, throughout the entire embryonic and fetal stages of the unborn child from fertilization until birth.

(b) A person who performs or attempts to perform an abortion commits the offense of criminal abortion. Criminal abortion is a Class C felony.

(c) It is an affirmative defense to prosecution under subsection (b), which must be proven by a preponderance of the evidence, that:

(1) The abortion was performed or attempted by a licensed physician;

(2) The physician determined, in the physician’s good faith medical judgment, based upon the facts known to the physician at the time, that the abortion was necessary to prevent the death of the pregnant woman or to prevent serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman. No abortion shall be deemed authorized under this subdivision (c)(2) if performed on the basis of a claim or a diagnosis that the woman will engage in conduct that would result in her death or substantial and irreversible impairment of a major bodily function or for any reason relating to her mental health; and

(3) The physician performs or attempts to perform the abortion in the manner which, in the physician’s good faith medical judgment, based upon the facts known to the physician at the time, provides the best opportunity for the unborn child to survive, unless in the physician’s good faith medical judgment, termination of the pregnancy in that manner would pose a greater risk of the death of the pregnant woman or substantial and irreversible impairment of a major bodily function. No such greater risk shall be deemed to exist if it is based on a claim or diagnosis that the woman will engage in conduct that would result in her death or substantial and irreversible impairment of a major bodily function or for any reason relating to her mental health.

(d) Medical treatment provided to the pregnant woman by a licensed physician which results in the accidental death of or unintentional injury to or death of the unborn child shall not be a violation of this section.

(e) This section does not subject the pregnant woman upon whom an abortion is performed or attempted to criminal conviction or penalty.

39-15-401. Child abuse and child neglect or endangerment.

(a) Any person who knowingly, other than by accidental means, treats a child under eighteen (18) years of age in such a manner as to inflict injury commits a Class A misdemeanor; provided, however, that, if the abused child is eight (8) years of age or less, the penalty is a Class D felony.

(b) Any person who knowingly abuses or neglects a child under eighteen (18) years of age, so as to adversely affect the child's health and welfare, commits a Class A misdemeanor; provided, that, if the abused or neglected child is eight (8) years of age or less, the penalty is a Class E felony.

(c)(1) A parent or custodian of a child eight (8) years of age or less commits child endangerment who knowingly exposes such child to or knowingly fails to protect such child from abuse or neglect resulting in physical injury or imminent danger to the child.

(2) For purposes of this subsection (c):

(A) "Imminent danger" means the existence of any condition or practice that could reasonably be expected to cause death or serious bodily injury;

(B) "Knowingly" means the person knew, or should have known upon a reasonable inquiry, that abuse to or neglect of the child would occur which would result in physical injury to the child. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary parent or legal custodian of a child eight (8) years of age or less would exercise under all the circumstances as viewed from the defendant's standpoint; and

(C) "Parent or custodian" means the biological or adoptive parent or any person who has legal custody of the child.

(3) A violation of this subsection (c) is a Class A misdemeanor.

(d)(1) Any court having reasonable cause to believe that a person is guilty of violating this section shall have the person brought before the court, either by summons or warrant. No arrest warrant or summons shall be issued by any person authorized to issue the warrant or summons, nor shall criminal charges be instituted against a child's parent, guardian or custodian for a violation of subsection (a), based upon the allegation that unreasonable corporal punishment was administered to the child, unless the affidavit of complaint also contains a copy of the report prepared by the law enforcement official who investigated the allegation, or independent medical verification of injury to the child.

(2)(A) As provided in this subdivision (d)(2), juvenile courts, courts of general session, and circuit and criminal courts, shall have concurrent jurisdiction to hear violations of this section.

(B) If the person pleads not guilty, the juvenile judge or general sessions judge shall have the power to bind the person over to the grand jury, as in cases of misdemeanors under the criminal laws of this state. Upon being bound over to the grand jury, the person may be prosecuted on an indictment filed by the district attorney general and, notwithstanding § 40-13-103, a prosecutor need not be named on the indictment.

(C) On a plea of not guilty, the juvenile court judge or general sessions judge shall have the power to proceed to hear the case on its merits, without the intervention of a jury, if the person requests a hearing in juvenile court or general sessions court and expressly waives, in writing, indictment, presentment, grand jury investigation and a jury trial.

(D) If the person enters a plea of guilty, the juvenile court or general sessions court judge shall sentence the person under this section.

(E) Regardless of whether the person pleads guilty or not guilty, the circuit court or criminal court shall have the power to proceed to hear the case on its merits, and, if found guilty, to sentence the person under this section.

(e) Except as expressly provided, this section shall not be construed as repealing any provision of any other statute, but shall be supplementary to any other provision and cumulative of any other provision.

(f) A violation of this section may be a lesser included offense of any kind of homicide, statutory assault, or sexual offense, if the victim is a child and the evidence supports a charge under this section. In any case in which conduct violating this section also constitutes assault, the conduct may be prosecuted under this section or under § 39-13-101 or § 39-13-102, or both.

(g) For purposes of this section, “adversely affect the child’s health and welfare” may include, but not be limited to, the natural effects of starvation or dehydration or acts of female genital mutilation as defined in § 39-13-110.

(h) The court may, in addition to any other punishment otherwise authorized by law, order a person convicted of child abuse to refrain from having any contact with the victim of the offense, including, but not limited to, attempted contact through internet services or social networking websites; provided, that the person has no parental rights to such victim at the time of the court’s order.

39-15-402. Haley’s Law — Aggravated child abuse and aggravated child neglect or endangerment — Definitions.

(a) A person commits the offense of aggravated child abuse, aggravated child neglect or aggravated child endangerment, who commits child abuse, as defined in § 39-15-401(a); child neglect, as defined in § 39-15-401(b); or child endangerment, as defined in § 39-15-401(c) and:

(1) The act of abuse, neglect or endangerment results in serious bodily injury to the child;

(2) A deadly weapon, dangerous instrumentality, controlled substance or controlled substance analogue is used to accomplish the act of abuse, neglect or endangerment;

(3) The act of abuse, neglect or endangerment was especially heinous, atrocious or cruel, or involved the infliction of torture to the victim; or

(4) The act of abuse, neglect or endangerment results from the knowing exposure of a child to the initiation of a process intended to result in the manufacture of methamphetamine as described in § 39-17-435.

(b) A violation of this section is a Class B felony; provided, however, that, if the abused, neglected or endangered child is eight (8) years of age or less, or is vulnerable because the victim is mentally defective, mentally incapacitated or suffers from a physical disability, the penalty is a Class A felony.

(c) “Serious bodily injury to the child” includes, but is not limited to, second- or third-degree burns, a fracture of any bone, a concussion, subdural or subarachnoid bleeding, retinal hemorrhage, cerebral edema, brain contusion, injuries to the skin that involve severe bruising or the likelihood of permanent or protracted disfigurement, including those sustained by whipping children with objects and acts of female genital mutilation as defined in § 39-13-110.

(d) A “dangerous instrumentality” is any item that, in the manner of its use or intended use as applied to a child, is capable of producing serious bodily

552

injury to a child, as serious bodily injury to a child is defined in this section.

(e) This section shall be known and may be cited as “Haley’s Law”.

(f) The court may, in addition to any other punishment otherwise authorized by law, order a person convicted of aggravated child abuse to refrain from having any contact with the victim of the offense, including, but not limited to, attempted contact through internet services or social networking websites; provided, that the person has no parental rights to such victim at the time of the court’s order.

39-15-407. Definitions for §§ 39-15-407 — 39-15-413.

As used in §§ 39-15-407 — 39-15-413:

(1) “Disseminate” means to sell, offer to sell, give or otherwise transfer;

(2) “Hemp” means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three tenths of one percent (0.3 %) on a dry weight basis;

(3) “Minor” means any person under eighteen (18) years of age or, in the case of alcoholic beverages, any person under twenty-one (21) years of age;

(4) “Purchase” means to buy, attempt to buy, or offer to buy;

(5) “Smoking material” means tobacco or hemp that is offered for sale to the public with the intention that it is consumed by smoking; and

(6) “Smoking paraphernalia” means a cigarette holder, cigarette papers, smoking pipe, water pipe or other item that is designated primarily to hold smoking material while the smoking material is being smoked.

39-15-501. Part definitions. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

As used in this part, unless the context otherwise requires:

(1) “Abandonment” means the knowing desertion or forsaking of an elderly or vulnerable adult by a caregiver under circumstances in which there is a reasonable likelihood that physical harm could occur;

(2) “Abuse” means the infliction of physical harm;

(3) “Adult protective services” means the division of adult protective services of the department of human services;

(4) “Caregiver”:

(A) Means a relative or a person who has a legal duty to provide care, or who has assumed such duty by contract or conduct that a reasonable person would interpret as an assumption of the responsibility for an elderly or vulnerable adult’s care; and

(B) Does not include a financial institution as a caregiver of property, funds, or other assets unless the financial institution has entered into an agreement, or has been appointed by a court of competent jurisdiction, to act as a trustee with regard to the property of the adult;

(5) “Confinement”:

(A) Means the knowing and unreasonable restriction of movement of an elderly or vulnerable adult by a caregiver;

(B) Includes, but is not limited to:

(i) Placing a person in a locked room;

(ii) Involuntarily separating a person from the person’s living area;

(iii) *The use of physical restraining devices on a person; or*

(iv) *The provision of unnecessary or excessive medications to a person;*
and

(C) *Does not include the use of the methods or devices described in subdivision (5)(B) if used in a licensed facility in a manner that conforms to state and federal standards governing confinement and restraint;*

(6) *“Elderly adult” means a person seventy (70) years of age or older;*

(7) *“Financial exploitation” means:*

(A) *The use of deception, intimidation, undue influence, force, or threat of force to obtain or exert unauthorized control over an elderly or vulnerable adult’s property with the intent to deprive the elderly or vulnerable adult of property;*

(B) *The breach of a fiduciary duty to an elderly or vulnerable adult by the person’s guardian, conservator, or agent under a power of attorney which results in an appropriation, sale, or transfer of the elderly or vulnerable adult’s property; or*

(C) *The act of obtaining or exercising control over an elderly or vulnerable adult’s property, without receiving the elderly or vulnerable adult’s effective consent, by a caregiver committed with the intent to benefit the caregiver or other third party;*

(8)(A) *“Neglect” means:*

(i) *The failure of a caregiver to provide the care, supervision, or services necessary to maintain the physical health of an elderly or vulnerable adult, including, but not limited to, the provision of food, water, clothing, medicine, shelter, medical services, a medical treatment plan prescribed by a healthcare professional, basic hygiene, or supervision that a reasonable person would consider essential for the well-being of an elderly or vulnerable adult;*

(ii) *The failure of a caregiver to make a reasonable effort to protect an elderly or vulnerable adult from abuse, sexual exploitation, neglect, or financial exploitation by others;*

(iii) *Abandonment; or*

(iv) *Confinement; and*

(B) *Neglect can be the result of repeated conduct or a single incident;*

(9) *“Physical harm” means physical pain or injury, regardless of gravity or duration;*

(10) *“Relative” means a spouse; child, including stepchild, adopted child, or foster child; parent, including stepparent, adoptive parent, or foster parent; sibling of the whole or half-blood; step-sibling; grandparent, of any degree; grandchild, of any degree; and aunt, uncle, niece, and nephew, of any degree, who:*

(A) *Resides with or has frequent or prolonged contact with the elderly or vulnerable adult; and*

(B) *Knows or reasonably should know that the elderly or vulnerable adult is unable to adequately provide for the adult’s own care or financial resources;*

(11) *“Serious physical harm” means physical harm of such gravity that:*

(A) *Would normally require medical treatment or hospitalization;*

(B) *Involves acute pain of such duration that it results in substantial suffering;*

(C) *Involves any degree of prolonged pain or suffering; or*

(D) *Involves any degree of prolonged incapacity;*

(12) *“Serious psychological injury” means any mental harm that would normally require extended medical treatment, including hospitalization or institutionalization, or mental harm involving any degree of prolonged incapacity;*

(13) *“Sexual exploitation” means an act committed upon or in the presence of an elderly or vulnerable adult, without that adult’s effective consent, for purposes of sexual gratification. “Sexual exploitation” includes, but is not limited to, fondling; exposure of genitals to an elderly or vulnerable adult; exposure of sexual acts to an elderly or vulnerable adult; exposure of an elderly or vulnerable adult’s sexual organs; an intentional act or statement by a person intended to shame, degrade, humiliate, or otherwise harm the personal dignity of an elderly or vulnerable adult; or an act or statement by a person who knew or should have known the act or statement would cause shame, degradation, humiliation, or harm to the personal dignity of an elderly or vulnerable adult. “Sexual exploitation” does not include any act intended for a valid medical purpose, or any act reasonably intended to be a normal caregiving act, such as bathing by appropriate persons at appropriate times; and*

(14) *“Vulnerable adult” means a person eighteen (18) years of age or older who, because of intellectual disability or physical dysfunction, is unable to fully manage the person’s own resources, carry out all or a portion of the activities of daily living, or fully protect against neglect, exploitation, or hazardous or abusive situations without assistance from others.*

39-15-506. Placement on registry — Fine. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a)(1) *Following a conviction for a violation of § 39-15-502, § 39-15-507(b)-(c), § 39-15-508, § 39-15-510, § 39-15-511, or § 39-15-512, or at the discretion of the court for a conviction of § 39-15-507(d), the clerk of the court shall notify the department of health of the conviction by sending a copy of the judgment in the manner set forth in § 68-11-1003 for inclusion on the registry pursuant to title 68, chapter 11, part 10.*

(2) *Upon receipt of a judgment of conviction for a violation of an offense set out in subdivision (a)(1), the department shall place the person or persons convicted on the registry of persons who have abused, neglected, or financially exploited an elderly or vulnerable adult as provided in § 68-11-1003(c).*

(3) *Upon entry of the information in the registry, the department shall notify the person convicted, at the person’s last known mailing address, of the person’s inclusion on the registry. The person convicted shall not be entitled or given the opportunity to contest or dispute either the prior hearing conclusions or the content or terms of any criminal disposition, or attempt to refute the factual findings upon which the conclusions and determinations are based. The person convicted may challenge the accuracy of the report that the criminal disposition has occurred, such hearing conclusions were made, or any factual issue related to the correct identity of the person. If the person convicted makes such a challenge within sixty (60) days of notification of inclusion on the registry, the commissioner, or the commissioner’s designee, shall afford the person an opportunity for a hearing on the matter that complies with the requirements of due process and the Uniform Administra-*

tive Procedures Act, compiled in title 4, chapter 5.

(b)(1) In addition to any other punishment that may be imposed for a violation of § 39-15-502, § 39-15-507, § 39-15-508, § 39-15-510, § 39-15-511, or § 39-15-512, the court shall impose a fine of not less than five hundred dollars (\$500) for Class A or Class B misdemeanor convictions, and a fine of not less than one thousand dollars (\$1,000) for felony convictions. The fine shall not exceed the maximum fine established for the appropriate offense classification.

(2) The person convicted shall pay the fine to the clerk of the court imposing the sentence, who shall transfer it to the district attorney of the judicial district in which the case was prosecuted. The district attorney shall credit the fine to a fund established for the purpose of educating, enforcing, and providing victim services for elderly and vulnerable adult prosecutions.

39-15-507. Offense of neglect of elderly adult — Offense of neglect of vulnerable adult. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) It is an offense for a caregiver to knowingly neglect an elderly or vulnerable adult, so as to adversely affect the person's health or welfare.

(b) The offense of neglect of an elderly adult is a Class E felony.

(c) The offense of neglect of a vulnerable adult is a Class D felony.

(d) If the neglect is a result of abandonment or confinement and no injury occurred, then the neglect by abandonment or confinement of an elderly or vulnerable adult is a Class A misdemeanor.

39-15-509. Report of abuse, sexual exploitation, neglect, or financial exploitation to adult protective services — Report of rape or sexual battery to adult protective services and law enforcement agency — Failure to make report. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a)(1) Any person having reasonable suspicion that an elderly or vulnerable adult is suffering or has suffered abuse, sexual exploitation, neglect, or financial exploitation shall report such neglect or financial exploitation to adult protective services pursuant to title 71, chapter 6.

(2) Any person having reasonable suspicion that an elderly or vulnerable adult is the victim of aggravated rape pursuant to § 39-13-502, rape pursuant to § 39-13-503, aggravated sexual battery pursuant to § 39-13-504, or sexual battery pursuant to § 39-13-505, shall report the conduct to adult protective services pursuant to title 71, chapter 6, and to the local law enforcement agency in the jurisdiction where the offense occurred.

(b) Any person who fails to make reasonable efforts to make a report required by subsection (a) or by title 71, chapter 6, commits a Class A misdemeanor.

(c) Upon good cause shown, adult protective services shall cooperate with law enforcement to identify those persons who knowingly fail to report abuse, sexual exploitation, neglect, or financial exploitation of an elderly or vulnerable adult.

(d)(1) This section does not apply to a financial service provider or to an employee of a financial service provider acting within the scope of the employee's employment except as provided by title 45, chapter 2, part 12.

(2) As used in subdivision (d)(1), "financial service provider" means any of

556

the following engaged in or transacting business in this state:

- (A) *A state or national bank or trust company;*
- (B) *A state or federal savings and loan association;*
- (C) *A state or federal credit union;*
- (D) *An industrial loan and thrift company, regulated by title 45, chapter 5;*
- (E) *A money transmitter, regulated by title 45, chapter 7, part 2;*
- (F) *A check casher, regulated by title 45, chapter 18;*
- (G) *A mortgage loan lender, mortgage loan broker, mortgage loan originator, or mortgage loan servicer, regulated by title 45, chapter 13;*
- (H) *A title pledge lender, regulated by title 45, chapter 15;*
- (I) *A deferred presentment services provider, regulated by title 45, chapter 17;*
- (J) *A flex loan provider, regulated by title 45, chapter 12; or*
- (K) *A home equity conversion mortgage lender, regulated by title 47, chapter 30.*

(e) *Upon commencement of criminal prosecution of abuse, sexual exploitation, neglect, or financial exploitation of an elderly or vulnerable adult, adult protective services shall provide to the district attorney general a complete and unredacted copy of adult protective services' entire investigative file excluding the identity of the referral source except as provided by subsection (f).*

(f) *Upon return of a criminal indictment or presentment alleging abuse, sexual exploitation, neglect, or financial exploitation of an elderly or vulnerable adult, adult protective services shall provide to the district attorney general the identity of the person who made the report in accordance with § 71-6-118.*

39-15-510. Offense of abuse of elderly or vulnerable adult. [Effective on January 1, 2020.]

- (a) *It is an offense for a person to knowingly abuse an elderly or vulnerable adult.*
- (b) *The offense of abuse of an elderly adult is a Class E felony.*
- (c) *The offense of abuse of a vulnerable adult is a Class D felony.*

39-15-511. Offense of aggravated abuse of elderly or vulnerable adult. [Effective on January 1, 2020.]

- (a) *A person commits the offense of aggravated abuse of an elderly or vulnerable adult who knowingly commits abuse pursuant to § 39-15-510, and:*
 - (1) *The act results in serious psychological injury or serious physical harm;*
 - (2) *A deadly weapon is used to accomplish the act or the abuse involves strangulation as defined in § 39-13-102; or*
 - (3) *The abuse results in serious bodily injury.*
- (b) *A violation of subdivision (a)(1) is a Class C felony.*
- (c) *A violation of subdivision (a)(2) or (a)(3) is a Class B felony.*

39-15-512. Offense of sexual exploitation of elderly adult or vulnerable adult. [Effective on January 1, 2020.]

- (a) *It is an offense for any person to knowingly sexually exploit an elderly adult or vulnerable adult.*
- (b) *A violation of this section is a Class A misdemeanor.*

39-15-513. Obtaining information concerning medical condition or health of elderly adult — Sending unsolicited or specifically refused medical items — Filing claim or submitting bill with state medicaid plan.

(a) A person or an entity commits an offense if the person or entity knowingly:

(1) Uses a telephone or other communication or electronic device to obtain information concerning the medical condition or health of an elderly adult;

(2) Sends, or causes to be sent, medical supplies, medical equipment, or medicine to the elderly adult and the items sent are unsolicited or specifically refused; and

(3) Files a claim or submits a bill with the state medicaid plan for reimbursement of the value of the equipment, supplies, or medicine sent to the elderly adult.

(b) Any person who violates this section shall be punished as provided in § 71-5-2601(a)(4).

39-16-201. Introduction or possession of weapons, ammunition, explosives, intoxicants, legend drugs, or controlled substances or controlled substance analogues into penal institution.

(a) As used in this section, unless the context otherwise requires, “telecommunication device” means any type of instrument, device, machine, or equipment that is capable of transmitting telephonic, electronic, digital, cellular or radio communications, or any part of such instrument, device, machine or equipment that is capable of facilitating the transmission of telephonic, electronic, digital, cellular or radio communications. “Telecommunication device” shall include, but not be limited to, cellular phones, digital phones and modem equipment devices.

(b) It is unlawful for any person to:

(1) Knowingly and with unlawful intent take, send, or otherwise cause to be taken into any penal institution where prisoners are quartered or under custodial supervision:

(A) Any weapon, ammunition, or explosive;

(B) Any intoxicant, legend drug, controlled substance, or controlled substance analogue found in chapter 17, part 4 of this title; or

(C) Any telecommunication device; or

(2) Knowingly and with unlawful intent possess any of the following materials while present in any penal institution where prisoners are quartered or under custodial supervision without the express written consent of the chief administrator of the institution:

(A) Any weapon, ammunition, or explosive; or

(B) Any intoxicant, legend drug, controlled substance, or controlled substance analogue found in chapter 17, part 4 of this title.

(c)(1) A violation of subdivision (b)(1)(A) or (b)(2)(A) is a Class C felony.

(2) A violation of subdivision (b)(1)(B), (b)(1)(C), or (b)(2)(B) is a Class D felony.

39-16-304. Misrepresentation of service animal or support animal.

(a) As used in this section, “service animal” and “support animal” have the

558

same meanings as the terms are defined in § 66-7-111(a).

(b) A person commits the offense of misrepresentation of a service animal or support animal who knowingly:

(1) Fraudulently represents, as a part of a request to maintain a service animal or support animal in residential rental property under § 66-7-111 or § 66-28-406, that the person has a disability or disability-related need for the use of a service animal or support animal; or

(2) Provides documentation to a landlord under § 66-7-111(c) or § 66-28-406(c) that falsely states an animal is a service animal or support animal.

(c) Misrepresentation of a service animal or support animal is a Class B misdemeanor.

39-16-504. Destruction of and tampering with governmental records.

(a) It is unlawful for any person to:

(1) Knowingly make a false entry in, or false alteration of, a governmental record;

(2) Make, present, or use any record, document or thing with knowledge of its falsity and with intent that it will be taken as a genuine governmental record; or

(3) Intentionally and unlawfully destroy, conceal, remove or otherwise impair the verity, legibility or availability of a governmental record.

(b) A violation of this section is a Class E felony.

(c)(1) Upon notification from any public official having custody of government records, including those created by municipal, county or state government agencies, that records have been unlawfully removed from a government records office, appropriate legal action may be taken by the city attorney, county attorney or attorney general, as the case may be, to obtain a warrant for possession of any public records which have been unlawfully transferred or removed in violation of this section.

(2) The records shall be returned to the office of origin immediately after safeguards are established to prevent further recurrence of unlawful transfer or removal.

39-16-507. Coercion or persuasion of witness.

(a) A person commits an offense who, by means of coercion, influences or attempts to influence a witness or prospective witness in an official proceeding with intent to influence the witness to:

(1) Testify falsely;

(2) Withhold any truthful testimony, truthful information, document or thing; or

(3) Elude legal process summoning the witness to testify or supply evidence, or to be absent from an official proceeding to which the witness has been legally summoned.

(b) A violation of this section is a Class D felony.

(c) A defendant in a criminal case involving domestic assault, pursuant to § 39-13-111, or a person acting at the direction of the defendant, commits an offense who, by any means of persuasion that is not coercion, intentionally influences or attempts to influence a witness or prospective witness in an official proceeding to:

(1) Testify falsely;

(2) Withhold any truthful testimony, information, document, or evidence;
or

(3) Elude legal process summoning the witness to testify or supply evidence, or to be absent from an official proceeding to which the witness has been legally summoned.

(d) A violation of subsection (c) is a Class A misdemeanor and, upon conviction, the sentence runs consecutively to the sentence for any other offense that is based in whole or in part on the factual allegations about which the person was seeking to influence a witness.

(e) Nothing in this section shall operate to impede the investigative activities of an attorney representing a defendant.

39-16-609. Failure to appear.

(a) It is unlawful for any person to knowingly fail to appear as directed by a lawful authority if the person:

(1) Has been lawfully issued a criminal summons pursuant to § 40-6-215;

(2) Has been lawfully commanded to appear for booking and processing pursuant to a criminal summons issued in accordance with § 40-6-215;

(3) Has been lawfully issued a citation in lieu of arrest under § 40-7-118;

(4) Has been lawfully released from custody, with or without bail, on condition of subsequent appearance at an official proceeding or penal institution at a specified time or place; or

(5) Knowingly goes into hiding to avoid prosecution or court appearance.

(b) It is a defense to prosecution under this section that:

(1) The appearance is required by a probation and parole officer as an incident of probation or parole supervision; or

(2) The person had a reasonable excuse for failure to appear at the specified time and place.

(c) Nothing in this section shall apply to witnesses.

(d) Failure to appear is a Class A misdemeanor.

(e) Any sentence received for a violation of this section must be ordered to be served consecutively to any sentence received for the offense for which the defendant failed to appear.

(f) [Deleted by 2019 amendment.]

39-16-702. Perjury. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) *A person commits an offense who, with intent to deceive:*

(1) *Makes a false statement, under oath;*

(2) *Makes a statement, under oath, that confirms the truth of a false statement previously made and the statement is required or authorized by law to be made under oath;*

(3) *Makes a false statement, not under oath, but on an official document required or authorized by law to be made under oath and stating on its face that a false statement is subject to the penalties of perjury; or*

(4) *Makes a false statement, not under oath, but in a declaration stating on its face that it is made under penalty of perjury.*

(b)(1) *Perjury is a Class A misdemeanor.*

(2) *Perjury committed on an application for a handgun carry permit under § 39-17-1351 or § 39-17-1366 is a Class E felony. Each application for a*

handgun carry permit shall clearly state in bold face type directly above the signature line that an applicant who, with intent to deceive, makes any false statement on the application is guilty of the felony offense of perjury.

(3) Perjury committed on a sexual offender or violent sexual offender TBI registration form under title 40, chapter 39, part 2, is a Class E felony. Each TBI registration form shall clearly state in bold face type directly above the signature line that an applicant who, with the intent to deceive, makes any false statement on the application is guilty of the felony offense of perjury.

39-17-402. Definitions for this part and title 53, chapter 11, parts 3 and 4.

As used in this part and title 53, chapter 11, parts 3 and 4, unless the context otherwise requires:

(1) “Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(A) A practitioner or by the practitioner’s authorized agent in the practitioner’s presence; or

(B) The patient or research subject at the direction and in the presence of the practitioner;

(2) “Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. “Agent” does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman;

(3) “Bureau” means the United States drug enforcement administration, United States department of justice, or its successor agency, except when used as the Tennessee bureau of investigation;

(4) “Controlled substance” means a drug, substance, or immediate precursor in Schedules I through VII of §§ 39-17-403 – 39-17-416;

(5) “Counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(6) “Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship;

(7) “Dispense” means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(8) “Dispenser” means a practitioner who dispenses;

(9) “Distribute” means to deliver other than by administering or dispensing a controlled substance;

(10) “Distributor” means a person who distributes;

(11) “Drug” means:

(A) Substances recognized as drugs in the United States Pharmacopoeia, official Homeopaths Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(B) Substances intended for use in the diagnosis, cure, mitigation,

treatment, or prevention of disease in man or animal;

(C) Substances, other than food, intended to affect the structure or any function of the body of man or animal; and

(D) Substances intended for use as a component of any article specified in subdivision (11)(A), (B) or (C). "Drug" does not include devices or their components, parts, or accessories;

(12) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance as defined in subdivision (4). "Drug paraphernalia" includes, but is not limited to:

(A) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant that is a controlled substance;

(B) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances; and

(C) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, marijuana concentrates, marijuana oil, cocaine, hashish, or hashish oil into the human body, such as:

- (i) Metal, acrylic, glass, stone, or plastic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- (ii) Water pipes;
- (iii) Carburetion tubes and devices;
- (iv) Smoking and carburetion masks;
- (v) Chamber pipes;
- (vi) Carburetor pipes;
- (vii) Electric pipes;
- (viii) Chillums;
- (ix) Bongs; and
- (x) Ice pipes or chillers;

(13) "Immediate methamphetamine precursor" means ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers, or any drug or other product that contains a detectable quantity of ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers;

(14) "Immediate precursor" means a substance that the commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture;

(15) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or

repackaging of the substance or labeling or relabeling of its container, except that “manufacture” does not include the preparation or compounding of a controlled substance by an individual for the individual’s own use or the preparation, compounding, packaging, or labeling of a controlled substance by:

(A) A practitioner as an incident to administering or dispensing a controlled substance in the course of professional practice; or

(B) A practitioner, or an authorized agent under the practitioner’s supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

(16)(A) “Marijuana” means all parts of the plant cannabis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, including concentrates and oils, its seeds or resin;

(B) “Marijuana” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil, or cake, or the sterilized seeds of the plant which are incapable of germination;

(C) “Marijuana” also does not include hemp, as defined in § 43-27-101;

(D) The term “marijuana” does not include a cannabidiol product approved as a prescription medication by the United States food and drug administration;

(E) The term “marijuana” does not include cannabis oil containing the substance cannabidiol, with less than six tenths of one percent (0.6%) of tetrahydrocannabinol, including the necessary seeds and plants, when manufactured, processed, transferred, dispensed, or possessed by a four-year public or private institution of higher education certified by the drug enforcement administration located in the state as part of a clinical research study on the treatment of intractable seizures, cancer, or other diseases; and

(F) The term “marijuana” does not include oil containing the substance cannabidiol, with less than nine-tenths of one percent (0.9%) of tetrahydrocannabinol, if:

(i) The bottle containing the oil is labeled by the manufacturer as containing cannabidiol in an amount less than nine-tenths of one percent (0.9%) of tetrahydrocannabinol; and

(ii) The person in possession of the oil retains:

(a) Proof of the legal order or recommendation from the issuing state; and

(b) Proof that the person or the person’s immediate family member has been diagnosed with intractable seizures or epilepsy by a medical doctor or doctor of osteopathic medicine who is licensed to practice medicine in the state of Tennessee;

(17) “Narcotic drug” means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(B) Any salt, compound, isomer, derivative, or preparation thereof that is chemically equivalent or identical with any of the substances referred to in subdivision (17)(A), but not including the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw; and

(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof that is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine;

(18) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. "Opiate" does not include, unless specifically designated as controlled under § 39-17-403, the dextrorotatory isomer of 3-methoxy-methyl-morphinan and its salts (dextromethorphan). "Opiate" does not include its racemic and levorotatory forms;

(19) "Opium poppy" means the plant of the species *papaver somniferum* L, except its seeds;

(20) "Person" means an individual, corporation, governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity;

(21) "Pharmacist" means a licensed pharmacist as defined by the laws of this state, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist; but nothing in this part or title 53, chapter 11, parts 3 and 4 shall be construed as conferring on a person who is not registered or licensed as a pharmacist any authority, right or privilege that is not granted to that person by the pharmacy laws of this state;

(22) "Poppy straw" means all parts, except the seeds, of the opium poppy after mowing;

(23) "Practitioner" means:

(A) A physician, dentist, optometrist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state; or

(B) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state;

(24) "Production" includes the manufacturing, planting, cultivating, growing or harvesting of a controlled substance;

(25) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States;

(26) "Ultimate user" means a person who lawfully possesses a controlled substance for the person's own use or for the use of a member of the person's household or for the administering to an animal owned by the person or by a member of the person's household; and

(27) “Wholesaler” means a person who supplies a controlled substance that the person has not produced or prepared, on official written orders, but not on prescriptions.

39-17-403. Power to schedule dangerous drugs — Federal determination — Exclusions — Revision and publication of schedules.

(a) The commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, shall administer this part and title 53, chapter 11, parts 3 and 4, and may add substances to or delete or reschedule all substances enumerated in the schedules in this part, pursuant to the procedures of the commissioner of mental health and substance abuse services upon the agreement of the commissioner of health. In making a determination regarding a substance, the commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, shall consider the following:

- (1) The actual or relative potential for abuse;
- (2) The scientific evidence of its pharmacological effect, if known;
- (3) The state of current scientific knowledge regarding the substance;
- (4) The history and current pattern of abuse;
- (5) The scope, duration and significance of abuse;
- (6) The risk to the public health;
- (7) The potential of the substance to produce psychic or physiological dependence liability; and
- (8) Whether the substance is an immediate precursor of a substance already controlled under this section.

(b) After considering the factors enumerated in subsection (a), the commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, shall make findings with respect thereto and issue a rule controlling the substance if the findings show the substance has a potential for abuse.

(c) If the commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, designates a substance as an immediate precursor, substances that are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the commissioner of mental health and substance abuse services, the commissioner, upon the agreement of the commissioner of health, shall similarly control the substance under this part and title 53, chapter 11, parts 3 and 4 after the expiration of thirty (30) days from publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless within that thirty-day period, the commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, objects to inclusion, rescheduling or deletion. In that case, the commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the commissioner of mental health and substance

abuse services, upon the agreement of the commissioner of health, shall publish a decision, which shall be final unless altered by statute. Upon publication of objection to inclusion, rescheduling, or deletion under this part, and title 53, chapter 11, parts 3 and 4 by the commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, control under this part and title 53, chapter 11, parts 3 and 4 is stayed until a decision in the matter is published.

(e) Authority to control under this section does not extend to distilled spirits, wine, malt beverages or tobacco as those terms are defined or used elsewhere in this code.

(f) The commissioner shall exclude the following from a schedule:

(1) Hemp, as defined in § 43-27-101; and

(2) Any nonnarcotic substance if, under the Federal Food, Drug and Cosmetic Act, compiled in 21 U.S.C. § 301 et seq., and the laws of this state, the substance may be lawfully sold over the counter without a prescription.

(g) The commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, in cooperation with the board of pharmacy, and in consultation with the director of the Tennessee bureau of investigation, shall revise and republish the schedules annually.

39-17-415. Criteria and controlled substances for Schedule VI.

(a) There is established a Schedule VI for the classification of substances which the commissioner of mental health and substance abuse services, upon the agreement of the commissioner of health, upon considering the factors set forth in § 39-17-403, decides should not be included in Schedules I through V. The controlled substances included in Schedule VI are:

(1) Marijuana;

(2) Tetrahydrocannabinols; and

(3) Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, *sp.* and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity, such as the following:

(A) 1 cis or trans tetrahydrocannabinol, and its optical isomers;

(B) 6 cis or trans tetrahydrocannabinol, and its optical isomers; or

(C) 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(b) Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered.

(c) This section does not categorize hemp, as defined in § 43-27-101, as a controlled substance.

39-17-417. Criminal offenses and penalties.

(a) It is an offense for a defendant to knowingly:

(1) Manufacture a controlled substance;

(2) Deliver a controlled substance;

(3) Sell a controlled substance; or

(4) Possess a controlled substance with intent to manufacture, deliver or sell the controlled substance.

(b) A violation of subsection (a) with respect to a Schedule I controlled substance is a Class B felony and, in addition, may be fined not more than one

566

hundred thousand dollars (\$100,000).

(c) A violation of subsection (a) with respect to:

(1) Cocaine or methamphetamine is a Class B felony if the amount involved is point five (0.5) grams or more of any substance containing cocaine or methamphetamine and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); and

(2)(A) Any other Schedule II controlled substance, including cocaine or methamphetamine in an amount of less than point five (0.5) grams, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); provided, that if the offense involves less than point five (0.5) grams of a controlled substance containing cocaine or methamphetamine but the defendant carried or employed a deadly weapon as defined in § 39-11-106, during commission of the offense or the offense resulted in death or bodily injury to another person, the offense is a Class B felony.

(B) As a part of any sentence imposed for a violation of subdivision (a)(1) involving a controlled substance listed in § 39-17-408(d)(2), the court shall require the defendant to make restitution to any governmental entity for the costs reasonably incurred in cleaning the area in which the offense occurred and in rendering the area safe for human use.

(C) In addition to the requirement that restitution be made to the governmental entity pursuant to subdivision (c)(2)(B), the court shall also require that restitution be made to any private property owner, either real or personal, whose property is destroyed or suffers damage as a result of the offense. In the case of property that was rented or leased, damages may also include the loss of any revenue that occurred because the property was uninhabitable or a crime scene. The type and amount of restitution permitted pursuant to this subdivision (c)(2)(C) shall be determined by the court using the procedure set out in § 40-35-304.

(d)(1) A violation of subsection (a) with respect to a Schedule III controlled substance is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).

(2)(A) Notwithstanding any other law to the contrary, a person charged for the first time with delivering an anabolic steroid or possessing an anabolic steroid with the intent to manufacture, deliver or sell the steroid shall be eligible for pretrial diversion pursuant to title 40, chapter 15, and probation pursuant to title 40, chapter 28 and § 40-35-313.

(B) The inference permitted by the first sentence of § 39-17-419 does not apply to a person charged under subdivision (a)(4) with possession of an anabolic steroid with intent to sell or deliver the steroid. Unless the state can prove that an actual sale or delivery occurred, the person may only be convicted of simple possession and punished as provided in § 39-17-418.

(e) A violation of subsection (a) with respect to:

(1) Flunitrazepam is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000); and

(2) Any other Schedule IV controlled substance is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).

(f) A violation of subsection (a) with respect to a Schedule V controlled substance is a Class E felony and, in addition, may be fined not more than five thousand dollars (\$5,000).

(g)(1) A violation of subsection (a) with respect to a Schedule VI controlled substance classified as marijuana containing not less than one-half ($\frac{1}{2}$) ounce (14.175 grams) nor more than ten pounds (10 lbs.) (4535 grams) of marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish), containing not more than two pounds (2 lbs.) (905 grams) of hashish is a Class E felony and, in addition, may be fined not more than five thousand dollars (\$5,000).

(2) A violation of subsection (a) with respect to a Schedule VI controlled substance classified as marijuana and containing not less than ten pounds (10 lbs.), one gram (4536 grams) of marijuana nor more than seventy pounds (70 lbs.) (31,696 grams) of marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than two pounds (2 lbs.), one gram (906 grams) nor more than four pounds (4 lbs.) (1810 grams) of hashish, or a Schedule VI controlled substance classified as marijuana consisting of not less than ten (10) marijuana plants nor more than nineteen (19) marijuana plants, regardless of weight, is a Class D felony and, in addition, may be fined not more than fifty thousand dollars (\$50,000).

(3) A violation of subsection (a) with respect to a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than four pounds (4 lbs.), one gram (1811 grams) nor more than eight pounds (8 lbs.) (3620 grams) of hashish, or a Schedule VI controlled substance classified as marijuana consisting of not less than twenty (20) marijuana plants nor more than ninety-nine (99) marijuana plants, regardless of weight, is a Class C felony and, in addition, may be fined not more than one hundred thousand dollars (\$100,000).

(h) A violation of subsection (a) with respect to a Schedule VII controlled substance is a Class E felony and, in addition, may be fined not more than one thousand dollars (\$1,000).

(i) A violation of subsection (a) with respect to the following amounts of a controlled substance, or conspiracy to violate subsection (a) with respect to such amounts, is a Class B felony and, in addition, may be fined not more than two hundred thousand dollars (\$200,000):

- (1) Fifteen (15) grams or more of any substance containing heroin;
- (2) Fifteen (15) grams or more of any substance containing morphine;
- (3) Five (5) grams or more of any substance containing hydromorphone;
- (4) Five (5) grams or more of any substance containing lysergic acid diethylamide (LSD);
- (5) Twenty-six (26) grams or more of any substance containing cocaine;
- (6) Five (5) grams or more of any substance containing a combination of pentazocine and tripeleennamine or joint possession of pentazocine and tripeleennamine;
- (7) Thirty (30) grams or more of any substance containing phencyclidine;
- (8) One hundred (100) grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;
- (9) Fifty (50) grams or more of any substance containing phenmetrazine;
- (10) Twenty-six (26) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;

568

(11) One thousand (1,000) grams or more of any substance containing peyote;

(12) Fifteen (15) grams or more of any substance containing fentanyl, carfentanil, remifentanil, alfentanil, thiafentanil, or any fentanyl derivative or analogue under § 39-17-406(b)(48);

(13) Two hundred (200) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(12); or

(14) Not less than seventy pounds (70 lbs.) (31,697 grams) nor more than three hundred pounds (300 lbs.) (136,050 grams) of any substance containing marijuana, or a Schedule VI controlled substance defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than eight pounds (8 lbs.), one gram (3621 grams) nor more than fifteen pounds (15 lbs.) (6,792 grams) of any substance containing hashish, or not less than one hundred (100) marijuana plants nor more than four hundred ninety-nine (499) marijuana plants, regardless of weight.

(j) A violation of subsection (a) with respect to the following amounts of a controlled substance, or conspiracy to violate subsection (a) with respect to such amounts is a Class A felony and, in addition, may be fined not more than five hundred thousand dollars (\$500,000):

(1) One hundred fifty (150) grams or more of any substance containing heroin;

(2) One hundred fifty (150) grams or more of any substance containing morphine;

(3) Fifty (50) grams or more of any substance containing hydromorphone;

(4) Fifty (50) grams or more of any substance containing lysergic acid diethylamide (LSD);

(5) Three hundred (300) grams or more of any substance containing cocaine;

(6) Fifty (50) grams or more of any substance containing a combination of pentazocine and tripeleminamine or joint possession of pentazocine and tripeleminamine;

(7) Three hundred (300) grams or more of any substance containing phencyclidine;

(8) One thousand (1,000) grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;

(9) Five hundred (500) grams or more of any substance containing phenmetrazine;

(10) Three hundred (300) grams or more of any substance containing amphetamine or methamphetamine or any salt of an optical isomer of amphetamine or methamphetamine;

(11) Ten thousand (10,000) grams or more of any substance containing peyote;

(12) One hundred fifty (150) grams or more of any substance containing fentanyl, carfentanil, remifentanil, alfentanil, thiafentanil, or any fentanyl derivative or analogue under § 39-17-406(b)(48);

(13) Two thousand (2,000) grams or more of any substance containing a controlled substance classified in Schedule I or II not listed in subdivisions (i)(1)-(12); or

(14) Three hundred pounds (300 lbs.) (136,050 grams) or more of any substance containing marijuana, or a Schedule VI controlled substance

defined as a non-leafy, resinous material containing tetrahydrocannabinol (hashish) and containing not less than fifteen pounds (15 lbs.), one gram (6,793 grams) of any substance containing hashish, or five hundred (500) or more marijuana plants, regardless of weight.

(k) A violation of this section or a conspiracy to violate this section where the recipient or the intended recipient of the controlled substance is under eighteen (18) years of age shall be punished one (1) classification higher than provided in subsections (b)-(i).

(l)(1) If the district attorney general believes that a defendant should be sentenced as a habitual drug offender, the district attorney general shall file notice of the defendant's record of prior convictions for violations specified in this subsection (l) in conformity with § 40-35-202.

(2) The trial court, upon the request of the district attorney general, shall enter injunctions, restraining orders, directions or prohibitions, or take other actions, including the acceptance of satisfactory performance bonds, liens on real property, security interests in personal property, for the purpose of collecting any fine imposed pursuant to this entire section.

(3) Any person found guilty of a violation of this section that constitutes a Class A or Class B felony or attempts to commit a Class A or Class B violation of this section or conspiracy to commit a Class A or Class B violation of this section and who has at least three (3) prior Class A or Class B felony convictions or any combination thereof under this section or § 39-6-417 [repealed] or under the laws of any other state or jurisdiction, which if committed in this state would have constituted a Class A or Class B felony violation under this section or § 39-6-417 [repealed]; provided, that the prior convictions were for violations committed at different times and on separate occasions at least twenty-four (24) hours apart, shall be found to be an habitual drug offender and shall be sentenced to one range of punishment higher than the range of punishment otherwise provided for in § 40-35-105, and, in addition, shall be fined not more than two hundred thousand dollars (\$200,000).

(m) The offense described in subdivision (a)(1) with respect to any substance defined in § 39-17-408(d)(2) shall include the preparation or compounding of a controlled substance by an individual for the individual's own use.

(n)(1) A violation of subdivision (a)(1) with respect to any amount of methamphetamine shall be punished by confinement for not less than one hundred eighty (180) days, and the person shall serve at least one hundred percent (100%) of the one hundred eighty (180) day minimum.

(2)(A) The one hundred eighty (180) day minimum sentence required by subdivision (n)(1) shall not be construed to prohibit a person sentenced pursuant to this subsection (n) from participating in a drug or recovery court that is certified by the department of mental health and substance abuse services.

(B) Any person participating in such a court may receive sentence credit for up to the full one hundred eighty (180) day minimum required by subdivision (n)(1).

39-17-501. Part definitions.

As used in this part, unless the context otherwise requires:

(1) Gambling is contrary to the public policy of this state and means risking anything of value for a profit whose return is to any degree

contingent on chance, or any games of chance associated with casinos, including, but not limited to, slot machines, roulette wheels and the like. For the purposes of this chapter gambling does not include:

- (A) A lawful business transaction;
- (B) Annual events operated for the benefit of nonprofit organizations that are authorized pursuant to a two-thirds ($\frac{2}{3}$) approval of the general assembly, so long as such events are not prohibited by the state constitution;
- (C) A state lottery of the type in operation in Georgia, Kentucky, and Virginia in 2000 and authorized by amendment to the Constitution of Tennessee, if the lottery is approved by the general assembly;
- (D) A fantasy sports contest as defined in § 47-18-1602 and conducted in accordance with the Fantasy Sports Act, compiled in title 47, chapter 18, part 16;
- (E) Lawfully accepting or placing a wager on a sporting event in accordance with the Tennessee Sports Gaming Act, compiled in title 4, chapter 51, part 3; or
- (F) A low-level sports entertainment pool;
- (2) “Gambling bet” means anything of value risked in gambling;
- (3) “Gambling device or record” means anything designed for use in gambling, intended for use in gambling, or used for gambling;
- (4) “Lawful business transaction,” as used in subdivision (1), includes any futures or commodities trading;
- (5) “Lottery” means the selling of anything of value for chances on a prize or stake;
- (6) “Low-level sports entertainment pool” or “pool” means a type of pari-mutuel betting:
 - (A) In which a participant:
 - (i) Pays money for participation in a pool; and
 - (ii) Makes selections based on the participant’s predictions of either the outcome of a series of athletic contests of the same sport or the statistics of individual athletes selected by the participant to assemble an imaginary team of athletes;
 - (B) That does not involve laying odds; and
 - (C) That has the following characteristics:
 - (i) The total or cumulative entry fee paid by an individual participant is no more than twenty-five dollars (\$25.00);
 - (ii) The total pool is no more than one thousand dollars (\$1,000); and
 - (iii) The pool is managed by an individual and not by any type of business entity; and
- (7) “Profit” means anything of value in addition to the gambling bet.

39-17-910. Unlawful possession, sale, distribution, or transportation of child-like sex doll.

- (a) It is an offense for a person to knowingly possess a child-like sex doll.
- (b) It is an offense for a person to knowingly sell or distribute a child-like sex doll.
- (c) It is an offense for a person to knowingly transport a child-like sex doll into this state or within this state with the intent to sell or distribute the child-like sex doll.
- (d) As used in this section, “child-like sex doll” means an obscene anatomi-

cally correct doll, mannequin, or robot that is intended for sexual stimulation or gratification and that has the features of, or has features that resemble those of, a minor.

(e) A violation of subsection (a) is a Class A misdemeanor.

(f) A violation of subsection (b) or (c) is a Class E felony, and in addition, notwithstanding § 40-35-111, a violator shall be fined an amount not less than ten thousand dollars (\$10,000) nor more than fifty thousand dollars (\$50,000). Any fine must be paid to the clerk of the court imposing the sentence, who shall transfer it to the state treasurer, who shall credit the fine to the general fund. All fines so credited to the general fund pursuant to this subsection (f) are subject to appropriation by the general assembly for the exclusive purposes of funding child advocacy centers, court-appointed special advocates, and sexual assault centers.

**39-17-1308. Defenses to unlawful possession or carrying of a weapon.
[Effective on January 1, 2020. See the version effective
until January 1, 2020.]**

(a) It is a defense to the application of § 39-17-1307 if the possession or carrying was:

(1) Of an unloaded rifle, shotgun or handgun not concealed on or about the person and the ammunition for the weapon was not in the immediate vicinity of the person or weapon;

(2) By a person authorized to possess or carry a firearm pursuant to § 39-17-1315, § 39-17-1351, or § 39-17-1366;

(3) At the person's:

(A) Place of residence;

(B) Place of business; or

(C) Premises;

(4) Incident to lawful hunting, trapping, fishing, camping, sport shooting or other lawful activity;

(5) By a person possessing a rifle or shotgun while engaged in the lawful protection of livestock from predatory animals;

(6) By a Tennessee valley authority officer who holds a valid commission from the commissioner of safety pursuant to this part while the officer is in the performance of the officer's official duties;

(7) By a state, county or municipal judge or any federal judge or any federal or county magistrate;

(8) By a person possessing a club or baton who holds a valid state security guard/officer registration card as a private security guard/officer, issued by the commissioner, and who also has certification that the officer has had training in the use of club or baton that is valid and issued by a person certified to give training in the use of clubs or batons;

(9) By any person possessing a club or baton who holds a certificate that the person has had training in the use of a club or baton for self-defense that is valid and issued by a certified person authorized to give training in the use of clubs or batons, and is not prohibited from purchasing a firearm under any local, state or federal laws;

(10) By any out-of-state, full-time, commissioned law enforcement officer who holds a valid commission card from the appropriate out-of-state law enforcement agency and a photo identification; provided, that if no valid

572

commission card and photo identification are retained, then it shall be unlawful for that officer to carry firearms in this state and this section shall not apply. The defense provided by this subdivision (a)(10) shall only be applicable if the state where the out-of-state officer is employed has entered into a reciprocity agreement with this state that allows a full-time, commissioned law enforcement officer in Tennessee to lawfully carry or possess a weapon in the other state; or

(11) By a person authorized to carry a handgun pursuant to § 36-3-626 or § 39-17-1365.

(b) The defenses described in this section are not available to persons described in § 39-17-1307(b)(1).

39-17-1309. Carrying weapons on school property. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) As used in this section, “weapon of like kind” includes razors and razor blades, except those used solely for personal shaving, and any sharp pointed or edged instrument, except unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance.

(b)(1) It is an offense for any person to possess or carry, whether openly or concealed, with the intent to go armed, any firearm, explosive, explosive weapon, bowie knife, hawk bill knife, ice pick, dagger, slingshot, leaded cane, switchblade knife, blackjack, knuckles or any other weapon of like kind, not used solely for instructional or school-sanctioned ceremonial purposes, in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field or any other property owned, operated, or while in use by any board of education, school, college or university board of trustees, regents or directors for the administration of any public or private educational institution.

(2) A violation of this subsection (b) is a Class E felony.

(c)(1)(A) It is an offense for any person to possess or carry, whether openly or concealed, any firearm, not used solely for instructional or school-sanctioned ceremonial purposes, in any public or private school building or bus, on any public or private school campus, grounds, recreation area, athletic field or any other property owned, operated, or while in use by any board of education, school, college or university board of trustees, regents or directors for the administration of any public or private educational institution.

(B) It is not an offense under this subsection (c) for a nonstudent adult to possess a firearm, if the firearm is contained within a private vehicle operated by the adult and is not handled by the adult, or by any other person acting with the expressed or implied consent of the adult, while the vehicle is on school property.

(2) A violation of this subsection (c) is a Class B misdemeanor.

(d)(1) Each chief administrator of a public or private school shall display in prominent locations about the school a sign, at least six inches (6") high and fourteen inches (14") wide, stating:

FELONY. STATE LAW PRESCRIBES A MAXIMUM PENALTY OF SIX (6) YEARS IMPRISONMENT AND A FINE NOT TO EXCEED THREE THOUSAND DOLLARS (\$3,000) FOR CARRYING WEAPONS ON SCHOOL PROPERTY.

(2) As used in this subsection (d), “prominent locations about a school” includes, but is not limited to, sports arenas, gymnasiums, stadiums and

cafeterias.

(e) Subsections (b) and (c) do not apply to the following persons:

(1) Persons employed in the army, air force, navy, coast guard or marine service of the United States or any member of the Tennessee national guard when in discharge of their official duties and acting under orders requiring them to carry arms or weapons;

(2) Civil officers of the United States in the discharge of their official duties;

(3) Officers and soldiers of the militia and the national guard when called into actual service;

(4) Officers of the state, or of any county, city or town, charged with the enforcement of the laws of the state, when in the discharge of their official duties;

(5) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a club or team, and who are required to carry arms or weapons in the discharge of their official class or team duties;

(6) Any private police employed by the administration or board of trustees of any public or private institution of higher education in the discharge of their duties;

(7) Any registered security guard/officer who meets the requirements of title 62, chapter 35, and who is discharging the officer's official duties;

(8)(A) Persons possessing a handgun, who are authorized to carry the handgun pursuant to § 39-17-1351, while within or on a public park, natural area, historic park, nature trail, campground, forest, greenway, waterway, or other similar public place;

(B) Subdivision (e)(8)(A) shall not apply if the enhanced handgun carry permit holder:

(i) Possessed a handgun on property described in subdivision (e)(8)(A) that is owned or operated by a board of education, school, college, or university board of trustees, regents, or directors unless the permit holder's possession is otherwise excepted by this subsection (e); or

(ii) Possessed a handgun in the immediate vicinity of property that was, at the time of possession, in use by any board of education, school, college or university board of trustees, regents, or directors for the administration of any public or private educational institution for the purpose of conducting an athletic event or other school-related activity on an athletic field, permanent or temporary, including but not limited to, a football or soccer field, tennis court, basketball court, track, running trail, Frisbee field, or any similar multi-use field; and

(iii) Knew or should have known that:

(a) An athletic event or school-related activity described in subdivision (e)(8)(B)(ii) was taking place on the property at the time of the possession; or

(b) The property on which the possession occurred was owned or operated by a school entity described in subdivision (e)(8)(B)(ii); or

(iv) Failed to take reasonable steps to leave the area of the athletic field or school-related activity or the property after being informed or becoming aware of:

(a) Its use for athletic or school-related purposes; or

(b) That it was, at the time of the possession, owned or operated by a school entity described in (e)(8)(B)(ii);

(9) Persons permitted to carry a handgun on the property of private K-12 schools by § 49-50-803, and persons permitted to carry a handgun on the property of private for-profit or nonprofit institutions of higher education pursuant to § 49-7-161; provided, that this subdivision (e)(9) shall apply only:

(A) To the school or institution where the person is located, when that school or institution has adopted a handgun carry policy pursuant to § 49-50-803 or § 49-7-161;

(B) While the person is on the property or grounds covered by the private school or institution's policy; and

(C) When the person is otherwise in compliance with the policy adopted by the private school or institution;

(10) Persons carrying a handgun pursuant to § 49-6-809, § 49-6-815, or § 49-6-816; provided, that this subdivision (e)(10) shall apply only within and on the grounds of the school for which the person is authorized;

(11)(A) Employees authorized to carry a handgun pursuant to § 39-17-1351 on property owned, operated, or controlled by the public institution of higher education at which the employee is employed;

(B)(i) Any authorized employee who elects to carry a handgun pursuant to this subdivision (e)(11) shall provide written notification to the law enforcement agency or agencies with jurisdiction over the property owned, operated, or controlled by the public institution of higher education that employs the employee;

(ii) The employee's name and any other information that might identify the employee as a person who has elected to carry a handgun pursuant to this subdivision (e)(11) shall be confidential, not open for public inspection, and shall not be disclosed by any law enforcement agency with which an employee registers; except that the employee's name and other information may be disclosed to an administrative officer of the institution who is responsible for school facility security; provided, however, that the administrative officer is not the employee's immediate supervisor or a supervisor responsible for evaluation of the employee. An administrative officer to whom such information is disclosed shall not disclose the information to another person. Identifying information about the employee collected pursuant to this subdivision (e)(11) shall not be disclosed to any person or entity other than another law enforcement agency and only for law enforcement purposes; and

(iii) Law enforcement agencies are authorized to develop and implement:

(a) Policies and procedures designed to implement the notification and confidentiality requirements of this subdivision (e)(11)(B); and

(b) A voluntary course or courses of special or supplemental firearm training to be offered to the employees electing to carry a handgun pursuant to this subdivision (e)(11). Firearm safety shall be a component of any firearm course;

(C) Unless carrying a handgun is a requirement of the employee's job description, the carrying of a handgun pursuant to this subdivision (e)(11) is a personal choice of the employee and not a requirement of the employer. Consequently, an employee who carries a handgun on property owned, operated, or controlled by the public institution of higher education at which the employee is employed is not:

- (i) Acting in the course of or scope of their employment when carrying or using the handgun;*
- (ii) Entitled to workers' compensation benefits under § 9-8-307(a)(1)(K) for injuries arising from the carrying or use of a handgun;*
- (iii) Immune from personal liability with respect to use or carrying of a handgun under § 9-8-307(h);*
- (iv) Permitted to carry a handgun openly, or in any other manner in which the handgun is visible to ordinary observation; or*
- (v) Permitted to carry a handgun at the following times and at the following locations:*
 - (a) Stadiums, gymnasiums, and auditoriums when school-sponsored events are in progress;*
 - (b) In meetings regarding disciplinary matters;*
 - (c) In meetings regarding tenure issues;*
 - (d) A hospital, or an office where medical or mental health services are the primary services provided; and*
 - (e) Any location where a provision of state or federal law, except the posting provisions of § 39-17-1359, prohibits the carrying of a handgun on that property;*
- (D) Notwithstanding any other law to the contrary, a public institution of higher education shall be absolutely immune from claims for monetary damages arising solely from or related to an employee's use of, or failure to use, a handgun; provided the employee is employed by the institution against whom the claim is filed and the employee elects to carry the handgun pursuant to this subdivision (e)(11). Nothing in this section shall expand the existing conditions under which sovereign immunity is waived pursuant to § 9-8-307; and*
- (E) As used in subdivisions (e)(11)-(13):*
 - (i) "Employee" includes all faculty, staff, and other persons who are employed on a full-time basis by a public institution of higher education; and*
 - (ii) "Employee" does not include a person who is enrolled as a student at a public institution of higher education, regardless of whether the person is also an employee;*
- (12)(A) Any employee of the University of Tennessee institute of agriculture or a college or department of agriculture at a campus in the University of Tennessee system when in the discharge of the employee's official duties and with prior authorization from the chancellor of the University of Tennessee institute of agriculture; or*
- (B) Any employee of the University of Tennessee institute of agriculture or a college or department of agriculture at a campus in the University of Tennessee system, and any member of the employee's household, living in a residence owned, used, or operated by the University of Tennessee, if the employee has prior authorization from the chancellor of the University of Tennessee institute of agriculture and the employee and household members are permitted to possess firearms in their residence under Tennessee and federal law; and*
- (13)(A) Any employee of the university's college or department of agriculture when in the discharge of the employee's official duties and with prior authorization from the president of a university in the board of regents system;*

(B) Any employee of the university's college or department of agriculture, and any member of the employee's household, living in a residence owned, used, or operated by the university, if the employee has prior authorization from the president of a university in the board of regents system and the employee and household members are permitted to possess firearms in their residence under Tennessee and federal law; or

(C) Any employee, with prior authorization of the president of a university in the board of regents system, who is engaged in wildlife biology or ecology research and education for the purpose of capture or collection of specimens.

39-17-1311. Carrying weapons on public parks, playgrounds, civic centers and other public recreational buildings and grounds. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) It is an offense for any person to possess or carry, whether openly or concealed, with the intent to go armed, any weapon prohibited by § 39-17-1302(a), not used solely for instructional, display or sanctioned ceremonial purposes, in or on the grounds of any public park, playground, civic center or other building facility, area or property owned, used or operated by any municipal, county or state government, or instrumentality thereof, for recreational purposes.

(b)(1) Subsection (a) shall not apply to the following persons:

(A) Persons employed in the army, air force, navy, coast guard or marine service of the United States or any member of the Tennessee national guard when in discharge of their official duties and acting under orders requiring them to carry arms or weapons;

(B) Civil officers of the United States in the discharge of their official duties;

(C) Officers and soldiers of the militia and the national guard when called into actual service;

(D) Officers of the state, or of any county, city or town, charged with the enforcement of the laws of the state, in the discharge of their official duties;

(E) Any pupils who are members of the reserve officers training corps or pupils enrolled in a course of instruction or members of a club or team, and who are required to carry arms or weapons in the discharge of their official class or team duties;

(F) Any private police employed by the municipality, county, state or instrumentality thereof in the discharge of their duties;

(G) A registered security guard/officer, who meets the requirements of title 62, chapter 35, while in the performance of the officer's duties;

(H)(i) Persons possessing a handgun, who are authorized to carry the handgun pursuant to § 39-17-1351 or § 39-17-1366, while within or on a public park, natural area, historic park, nature trail, campground, forest, greenway, waterway, or other similar public place that is owned or operated by the state, a county, a municipality, or instrumentality of the state, a county, or municipality;

(ii) Subdivision (b)(1)(H)(i) shall not apply if the permit holder:

(a) Possessed a handgun in the immediate vicinity of property that was, at the time of possession, in use by any board of education, school,

college or university board of trustees, regents, or directors for the administration of any public or private educational institution for the purpose of conducting an athletic event or other school-related activity on an athletic field, permanent or temporary, including but not limited to, a football or soccer field, tennis court, basketball court, track, running trail, Frisbee field, or similar multi-use field; and

(b) Knew or should have known the athletic activity or school-related activity described in subdivision (b)(1)(H)(ii)(a) was taking place on the property; or

(c) Failed to take reasonable steps to leave the area of the athletic event or school-related activity after being informed of or becoming aware of its use;

(iii) For purposes of subdivision (b)(1)(H)(ii)(a) and (c), property described in subdivision (b)(1)(H)(i) is "in use" only when one (1) or more students are physically present on the property for an activity a reasonable person knows or should know is an athletic event, or other school event or school-related activity. Property listed in subdivision (b)(1)(H)(i) is not in use solely because equipment, materials, supplies, or other property owned or used by a school is stored, maintained, or permitted to remain on the property;

(I) Persons possessing a handgun, who are authorized to carry the handgun pursuant to § 39-17-1351 or § 39-17-1366, while within or on property designated by the federal government as a national park, forest, preserve, historic park, military park, trail or recreation area, to the extent permitted by federal law; and

(J) Also, only to the extent a person strictly conforms the person's behavior to the requirements of one (1) of the following classifications:

(i) A person hunting during the lawful hunting season on lands owned by any municipality, county, state or instrumentality thereof and designated as open to hunting by law or by the appropriate official;

(ii) A person possessing unloaded hunting weapons while traversing the grounds of any public recreational building or property for the purpose of gaining access to public or private lands open to hunting with the intent to hunt on the public or private lands unless the public recreational building or property is posted prohibiting entry;

(iii) A person possessing guns or knives when conducting or attending "gun and knife shows" when the program has been approved by the administrator of the recreational building or property;

(iv) A person entering the property for the sole purpose of delivering or picking up passengers and who does not remove any weapon from the vehicle or utilize it in any manner; or

(v) A person who possesses or carries a firearm for the purpose of sport or target shooting and sport or target shooting is permitted in the park or recreational area.

(2) At any time the person's behavior no longer strictly conforms to one (1) of the classifications in subdivision (b)(1), the person shall be subject to subsection (a).

(c) A violation of subsection (a) is a Class A misdemeanor.

(d) For the purposes of this section, a "greenway" means an open-space area following a natural or man-made linear feature designed to be used for recreation, transportation, conservation, and to link services and facilities. A

578

greenway is a paved, gravel-covered, woodchip covered, or wood-covered path that connects one greenway entrance with another greenway entrance. In the event a greenway traverses a park that is owned or operated by a county, municipality or instrumentality thereof, the greenway shall be considered a portion of that park unless designated otherwise by the local legislative body. Except as provided in this part, the definition of a greenway in this section shall not be applicable to any other provision of law.

39-17-1313. Transporting and storing a firearm or firearm ammunition in permit holder's motor vehicle. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) Notwithstanding any provision of law or any ordinance or resolution adopted by the governing body of a city, county or metropolitan government, including any ordinance or resolution enacted before April 8, 1986, that prohibits or regulates the possession, transportation or storage of a firearm or firearm ammunition by an enhanced handgun carry permit holder or concealed handgun carry permit holder; the holder of a valid enhanced handgun carry permit or concealed handgun carry permit recognized in Tennessee may, unless expressly prohibited by federal law, transport and store a firearm or firearm ammunition in the permit holder's motor vehicle, as defined in § 55-1-103, while on or utilizing any public or private parking area if:

(1) The permit holder's motor vehicle is parked in a location where it is permitted to be; and

(2) The firearm or ammunition being transported or stored in the motor vehicle:

(A) Is kept from ordinary observation if the permit holder is in the motor vehicle; or

(B) Is kept from ordinary observation and locked within the trunk, glove box, or interior of the person's motor vehicle or a container securely affixed to such motor vehicle if the permit holder is not in the motor vehicle.

(b) No business entity, public or private employer, or the owner, manager, or legal possessor of the property shall be held liable in any civil action for damages, injuries or death resulting from or arising out of another's actions involving a firearm or ammunition transported or stored by the holder of a valid handgun carry permit in the permit holder's motor vehicle unless the business entity, public or private employer, or the owner, manager, or legal possessor of the property commits an offense involving the use of the stored firearm or ammunition or intentionally solicits or procures the conduct resulting in the damage, injury or death. Nor shall a business entity, public or private employer, or the owner, manager, or legal possessor of the property be responsible for the theft of a firearm or ammunition stored by the holder of a valid handgun carry permit in the permit holder's motor vehicle.

(c) For purposes of this section:

(1) "Motor vehicle" means any motor vehicle as defined in § 55-1-103, which is in the lawful possession of the permit holder, but does not include any motor vehicle which is owned or leased by a governmental or business entity and that is provided by such entity to an employee for use during the course of employment if the entity has adopted a written policy prohibiting firearms or ammunition not required for employment within the entity's motor vehicles; and

(2)(A) *“Parking area” means any property provided by a business entity, public or private employer, or the owner, manager, or legal possessor of the property for the purpose of permitting its invitees, customers, clients or employees to park privately owned motor vehicles; and*

(B) *“Parking area” does not include the grounds or property of an owner-occupied, single-family detached residence, or a tenant-occupied single-family detached residence.*

(d) *An enhanced handgun carry permit holder or concealed handgun carry permit holder transporting, storing or both transporting and storing a firearm or firearm ammunition in accordance with this section does not violate this section if the firearm or firearm ammunition is observed by another person or security device during the ordinary course of the enhanced handgun carry permit holder or concealed handgun carry permit holder securing the firearm or firearm ammunition from observation in or on a motor vehicle.*

39-17-1314. Preemption of local regulation of firearms, ammunition, and knives — Actions against firearms or ammunition manufacturer, trade association, or dealer — Party adversely affected by local regulation.

(a) Except as otherwise provided by state law or as specifically provided in subsection (b), the general assembly preempts the whole field of the regulation of firearms, ammunition, or components of firearms or ammunition, or combinations thereof including, but not limited to, the use, purchase, transfer, taxation, manufacture, ownership, possession, carrying, sale, acquisition, gift, devise, licensing, registration, storage, and transportation thereof, to the exclusion of all county, city, town, municipality, or metropolitan government law, ordinances, resolutions, enactments or regulation. No county, city, town, municipality, or metropolitan government nor any local agency, department, or official shall occupy any part of the field regulation of firearms, ammunition or components of firearms or ammunition, or combinations thereof.

(b) A city, county, town, municipality or metropolitan government is expressly authorized to regulate by ordinance, resolution, policy, rule or other enactment the following:

(1) The carrying of firearms by employees or independent contractors of the city, county, town municipality or metropolitan government when acting in the course and scope of their employment or contract, except as otherwise provided in § 39-17-1313;

(2) The discharge of firearms within the boundaries of the applicable city, county, town, municipality or metropolitan government, except when and where the discharge of a firearm is expressly authorized or permitted by state law;

(3) The location of a sport shooting range, except as otherwise provided in §§ 39-17-316 and 13-3-412. To the extent that a city, county, town, municipality, or metropolitan government has or enforces any regulation of privately owned or operated sport shooting ranges, the city, county, town, municipality, or metropolitan government shall not impose greater restrictions or requirements on privately owned or operated ranges than are applicable to any range located within the same unit of local government and owned or operated by a government entity. A party may challenge any regulation of a sport shooting range that violates this subdivision (b)(3) in

580

the manner described in subsection (g); and

(4) The enforcement of any state or federal law pertaining to firearms, ammunition, or components of firearms or ammunition, or combinations thereof.

(c) The general assembly declares that the lawful design, marketing, manufacture and sale of firearms and ammunition to the public are not unreasonably dangerous activities and do not constitute a nuisance per se.

(d)(1) The authority to bring suit and right to recover against any firearms or ammunition manufacturer, trade association or dealer by or on behalf of any state entity, county, municipality or metropolitan government for damages, abatement or injunctive relief resulting from or relating to the lawful design, manufacture, marketing or sale of firearms or ammunition to the public shall be reserved exclusively to the state.

(2) Nothing in this subsection (d) shall be construed to prohibit a county, municipality, or metropolitan government from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by such county, municipality, or metropolitan government.

(3) Nothing in this subsection (d) shall preclude an individual from bringing a cause of action for breach of a written contract, breach of an express warranty, or for injuries resulting from defects in the materials or workmanship in the manufacture of the firearm.

(e) Subsections (c) and (d) shall not apply in any litigation brought by an individual against a firearms or ammunition manufacturer, trade association or dealer.

(f) It is the intent of the general assembly that this part is preemptive with respect to the transfer, ownership, possession or transportation of knives and no city, county, or metropolitan government shall occupy any part of the field of regulation of the transfer, ownership, possession or transportation of knives.

(g)(1) Notwithstanding title 29, chapter 20, a party who is adversely affected by an ordinance, resolution, policy, rule, or other enactment that is adopted or enforced by a county, city, town, municipality, or metropolitan government or any local agency, department, or official that violates this section may file an action in a court of competent jurisdiction against the county, city, town, municipality, or metropolitan government for:

(A) Declaratory and injunctive relief; and

(B) Damages, as provided in subsection (i).

(2) This subsection (g) shall apply to any ordinance, resolution, policy, rule, or other enactment that is adopted or enforced on or after July 1, 2017.

(h) As used in subsection (g), a party is "adversely affected" if:

(1) The party is an individual who:

(A) Lawfully resides within the United States;

(B) May legally possess a firearm under Tennessee law; and

(C) Is or was subject to the ordinance, resolution, policy, rule, or other enactment that is the subject of an action filed under subsection (g). An individual is or was subject to the ordinance, resolution, policy, rule, or other enactment if the individual is or was physically present within the boundaries of the political subdivision for any reason; or

(2) The party is a membership organization that:

(A) Includes two (2) or more individuals described in subdivision (h)(1);

and

(B) Is dedicated in whole or in part to protecting the rights of persons who possess, own, or use firearms for competitive, sporting, defensive, or other lawful purposes.

(i) A prevailing plaintiff in an action under subsection (g) is entitled to recover from the county, city, town, municipality, or metropolitan government the following:

(1) The greater of:

(A) Actual damages, including consequential damages, attributable to the ordinance, resolution, policy, rule, or other enactment; or

(B) Three (3) times the plaintiff's attorney's fees;

(2) Court costs, including fees; and

(3) Reasonable attorney's fees; provided, that attorney's fees shall not be awarded under this subdivision (i)(3) if the plaintiff recovers under subdivision (i)(1)(B).

39-17-1316. Sales of dangerous weapons — Certification of purchaser — Exceptions — Licensing of dealers — Definitions.

(a)(1) Any person appropriately licensed by the federal government may stock and sell firearms to persons desiring firearms; however, sales to persons who have been convicted of the offense of stalking, as prohibited by § 39-17-315, who are addicted to alcohol, who are ineligible to receive firearms under 18 U.S.C. § 922, or who have been judicially committed to a mental institution pursuant to title 33 or adjudicated as a mental defective are prohibited. For purposes of this subdivision (a)(1), the offense of violation of a protective order as prohibited by § 39-13-113 shall be considered a "misdemeanor crime of domestic violence" for purposes of 18 U.S.C. § 921.

(2) The provisions of this subsection (a) prohibiting the sale of a firearm to a person convicted of a felony shall not apply if:

(A) The person was pardoned for the offense;

(B) The conviction has been expunged or set aside; or

(C) The person's civil rights have been restored pursuant to title 40, chapter 29; and

(D) The person is not prohibited from possessing a firearm by § 39-17-1307.

(b)(1) As used in this section, "firearm" has the meaning as defined in § 39-11-106, including handguns, long guns, and all other weapons that meet the definition except "antique firearms" as defined in 18 U.S.C. § 921.

(2) As used in this section, "gun dealer" means a person engaged in the business, as defined in 18 U.S.C. § 921, of selling, leasing, or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker, or otherwise.

(c) Except with respect to transactions between persons licensed as dealers under 18 U.S.C. § 923, a gun dealer shall comply with the following before a firearm is delivered to a purchaser:

(1) The purchaser shall present to the dealer current identification meeting the requirements of subsection (f);

(2) The gun dealer shall complete a firearms transaction record as required by 18 U.S.C. §§ 921-929, and obtain the signature of the purchaser on the record;

(3) The gun dealer shall request by means designated by the bureau that the Tennessee bureau of investigation conduct a criminal history record check on the purchaser and shall provide the following information to the bureau:

- (A) The federal firearms license number of the gun dealer;
- (B) The business name of the gun dealer;
- (C) The place of transfer;
- (D) The name of the person making the transfer;
- (E) The make, model, caliber and manufacturer's number of the firearm being transferred;
- (F) The name, gender, race, and date of birth of the purchaser;
- (G) The social security number of the purchaser, if one has been assigned; and
- (H) The type, issuer and identification number of the identification presented by the purchaser; and

(4) The gun dealer shall receive a unique approval number for the transfer from the bureau and record the approval number on the firearms transaction record.

(d) Upon receipt of a request of the gun dealer for a criminal history record check, the Tennessee bureau of investigation shall immediately, during the gun dealer's telephone call or by return call:

(1) Determine, from criminal records and other information available to it, whether the purchaser is disqualified under subdivision (a)(1) from completing the purchase; and

(2) Notify the dealer when a purchaser is disqualified from completing the transfer or provide the dealer with a unique approval number indicating that the purchaser is qualified to complete the transfer.

(e)(1) The Tennessee bureau of investigation may charge a reasonable fee, not to exceed ten dollars (\$10.00), for conducting background checks and other costs incurred under this section, and shall be empowered to bill gun dealers for checks run.

(2) Funds collected by the Tennessee bureau of investigation pursuant to this section shall be deposited in a continuing deferred interest-bearing revenue fund that is created in the state treasury. This fund will not revert to the general fund on June 30 of any year. This fund shall be used to offset the costs associated with conducting background checks. By February 1 of each year the Tennessee bureau of investigation shall report to the judiciary committee of the senate and the judiciary committee of the house of representatives the amount of money collected pursuant to this section in excess of the costs associated with conducting background checks as required by this section. The excess money shall be appropriated by the general assembly to the Tennessee bureau of investigation for other law enforcement related purposes as it deems appropriate and necessary.

(f)(1) Identification required of the purchaser under subsection (c) shall include one (1) piece of current, valid identification bearing a photograph and the date of birth of the purchaser that:

- (A) Is issued under the authority of the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization or an international quasi-governmental organization; and
- (B) Is intended to be used for identification of an individual or is

commonly accepted for the purpose of identification of an individual.

(2) If the identification presented by the purchaser under subdivision (f)(1)(A) does not include the current address of the purchaser, the purchaser shall present a second piece of current identification that contains the current address of the purchaser.

(g) The Tennessee bureau of investigation may require that the dealer verify the identification of the purchaser if that identity is in question by sending the thumbprints of the purchaser to the bureau.

(h) The Tennessee bureau of investigation shall establish a telephone number that shall be operational seven (7) days a week between the hours of eight o'clock a.m. and ten o'clock p.m. Central Standard Time (8:00 a.m. – 10:00 p.m. (CST)), except Christmas Day, Thanksgiving Day, and Independence Day, for the purpose of responding to inquiries from dealers for a criminal history record check under this section.

(i) No public employee, official or agency shall be held criminally or civilly liable for performing the investigations required by this section; provided the employee, official or agency acts in good faith and without malice.

(j) Upon the determination that receipt of a firearm by a particular individual would not violate this section, and after the issuance of a unique identifying number for the transaction, the Tennessee bureau of investigation shall destroy all records (except the unique identifying number and the date that it was assigned) associating a particular individual with a particular purchase of firearms.

(k) A law enforcement agency may inspect the records of a gun dealer relating to transfers of firearms in the course of a reasonable inquiry during a criminal investigation or under the authority of a properly authorized subpoena or search warrant.

(l)(1) The following transactions or transfers are exempt from the criminal history record check requirement of subdivision (c)(3):

(A) Transactions between licensed:

(i) Importers;

(ii) Manufacturers;

(iii) Dealers; and

(iv) Collectors who meet the requirements of subsection (b) and certify prior to the transaction the legal and licensed status of both parties;

(B) Transactions or transfers between a licensed importer, licensed manufacturer, or licensed dealer and a bona fide law enforcement agency or the agency's personnel. However, all other requirements of subsection (c) are applicable to a transaction or transfer under this subdivision (l)(1)(B); and

(C) Transactions by a gun dealer, as defined in subdivision (b)(2), making occasional sales, exchanges, or transfers of firearms that comprise all or part of the gun dealer's personal collection of firearms.

(2) The burden of proving the legality of any transaction or transfer under this subsection (l) is upon the transferor.

(m) The director of the Tennessee bureau of investigation is authorized to make and issue all rules and regulations necessary to carry out this section.

(n) In addition to the other grounds for denial, the bureau shall deny the transfer of a firearm if the background check reveals information indicating that the purchaser has been charged with a crime for which the purchaser, if

convicted, would be prohibited under state or federal law from purchasing, receiving, or possessing a firearm; and, either there has been no final disposition of the case, or the final disposition is not noted.

(o) Upon receipt of the criminal history challenge form indicating a purchaser's request for review of the denial, the bureau shall proceed with efforts to obtain the final disposition information. The purchaser may attempt to assist the bureau in obtaining the final disposition information. If neither the purchaser nor the bureau is able to obtain the final disposition information within fifteen (15) calendar days of the bureau's receipt of the criminal history challenge form, the bureau shall immediately notify the federal firearms licensee that the transaction that was initially denied is now a "conditional proceed." A "conditional proceed" means that the federal firearms licensee may lawfully transfer the firearm to the purchaser.

(p) In any case in which the transfer has been denied pursuant to subsection (n), the inability of the bureau to obtain the final disposition of a case shall not constitute the basis for the continued denial of the transfer as long as the bureau receives written notice, signed and verified by the clerk of the court or the clerk's designee, that indicates that no final disposition information is available. Upon receipt of the letter by the bureau, the bureau shall immediately reverse the denial.

(q)(1) It is an offense for a person to purchase or attempt to purchase a firearm knowing that the person is prohibited by state or federal law from owning, possessing or purchasing a firearm.

(2) It is an offense to sell or offer to sell a firearm to a person knowing that the person is prohibited by state or federal law from owning, possessing or purchasing a firearm.

(3) It is an offense to transfer a firearm to a person knowing that the person:

(A) Has been judicially committed to a mental institution or adjudicated as a mental defective unless the person's right to possess firearms has been restored pursuant to title 16; or

(B) Is receiving inpatient treatment, pursuant to title 33, at a treatment resource, as defined in § 33-1-101, other than a hospital.

(4) A violation of this subsection (q) is a Class A misdemeanor.

(r) The criminal history records check required by this section shall not apply to an occasional sale of a used or second-hand firearm by a person who is not engaged in the business of importing, manufacturing, or dealing in firearms, pursuant to 18 U.S.C. §§ 921 and 923.

39-17-1321. Possession of handgun while under influence — Penalty.
[Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) Notwithstanding whether a person has a permit issued pursuant to § 39-17-1315 or § 39-17-1351 or § 39-17-1366, it is an offense for a person to possess a handgun while under the influence of alcohol or any controlled substance or controlled substance analogue.

(b) It is an offense for a person to possess a firearm if the person is both:

(1) Within the confines of an establishment open to the public where liquor, wine or other alcoholic beverages, as defined in § 57-3-101(a), or beer, as defined in § 57-6-102, are served for consumption on the premises; and

- (2) Consuming any alcoholic beverage listed in subdivision (b)(1).*
- (c)(1) A violation of this section is a Class A misdemeanor.*
- (2) In addition to the punishment authorized by subdivision (c)(1), if the violation is of subsection (a), occurs in an establishment described in subdivision (b)(1), and the person has a handgun permit issued pursuant to § 39-17-1351 or § 39-17-1366, such permit shall be suspended in accordance with § 39-17-1352 for a period of three (3) years.*

39-17-1324. Offense of possessing firearm or antique firearm during commission or attempt to commit dangerous felony.

(a) It is an offense to possess a firearm or antique firearm with the intent to go armed during the commission of or attempt to commit a dangerous felony.

(b) It is an offense to employ a firearm or antique firearm during the:

- (1) Commission of a dangerous felony;
- (2) Attempt to commit a dangerous felony;
- (3) Flight or escape from the commission of a dangerous felony; or
- (4) Flight or escape from the attempt to commit a dangerous felony.

(c) A person may not be charged with a violation of subsection (a) or (b) if possessing or employing a firearm or antique firearm is an essential element of the underlying dangerous felony as charged. In cases where possession or employing a firearm or antique firearm are elements of the charged offense, the state may elect to prosecute under a lesser offense wherein possession or employing a firearm or antique firearm is not an element of the offense.

(d) A violation of subsection (a) or (b) is a specific and separate offense, which shall be pled in a separate count of the indictment or presentment and tried before the same jury and at the same time as the dangerous felony. The jury shall determine the innocence or guilt of the defendant unless the defendant and the state waive the jury.

(e)(1) A sentence imposed for a violation of subsection (a) or (b) shall be served consecutive to any other sentence the person is serving at the time of the offense or is sentenced to serve for conviction of the underlying dangerous felony.

(2) A person sentenced for a violation of subsection (a) or (b) shall not be eligible for pretrial diversion pursuant to title 40, chapter 15, judicial diversion pursuant to § 40-35-313, probation pursuant to § 40-35-303, community correction pursuant to title 40, chapter 36, participation in a drug court program or any other program whereby the person is permitted supervised or unsupervised release into the community prior to service of the entire mandatory minimum sentence imposed less allowable sentence credits earned and retained as provided in § 40-35-501(j).

(f) In a trial for a violation of subsection (a) or (b), where the state is also seeking to have the person sentenced under subdivision (g)(2) or (h)(2), the trier of fact shall first determine whether the person possessed or employed a firearm or antique firearm. If the trier of fact finds in the affirmative, proof of a qualifying prior felony conviction pursuant to this section shall then be presented to the trier of fact.

(g)(1) A violation of subsection (a) is a Class D felony, punishable by a mandatory minimum three-year sentence to the department of correction.

(2) A violation of subsection (a) is a Class D felony, punishable by a mandatory minimum five-year sentence to the department of correction, if

the defendant, at the time of the offense, had a prior felony conviction.

(h)(1) A violation of subsection (b) is a Class C felony, punishable by a mandatory minimum six-year sentence to the department of correction.

(2) A violation of subsection (b) is a Class C felony, punishable by a mandatory minimum ten-year sentence to the department of correction, if the defendant, at the time of the offense, had a prior felony conviction.

(i) As used in this section, unless the context otherwise requires:

(1) “Dangerous felony” means:

(A) Attempt to commit first degree murder, as defined in §§ 39-12-101 and 39-13-202;

(B) Attempt to commit second degree murder, as defined in §§ 39-13-210 and 39-12-101;

(C) Voluntary manslaughter, as defined in § 39-13-211;

(D) Carjacking, as defined in § 39-13-404;

(E) Especially aggravated kidnapping, as defined in § 39-13-305;

(F) Aggravated kidnapping, as defined in § 39-13-304;

(G) Especially aggravated burglary, as defined in § 39-14-404;

(H) Aggravated burglary, as defined in § 39-14-403;

(I) Especially aggravated stalking, as defined in § 39-17-315(d);

(J) Aggravated stalking, as defined in § 39-17-315(c);

(K) Initiating the process to manufacture methamphetamine, as defined in § 39-17-435;

(L) A felony involving the sale, manufacture, distribution or possession with intent to sell, manufacture or distribute a controlled substance or controlled substance analogue defined in part 4 of this chapter; or

(M) Any attempt, as defined in § 39-12-101, to commit a dangerous felony;

(2)(A) “Prior conviction” means that the person serves and is released or discharged from, or is serving, a separate period of incarceration or supervision for the commission of a dangerous felony prior to or at the time of committing a dangerous felony on or after January 1, 2008;

(B) “Prior conviction” includes convictions under the laws of any other state, government or country that, if committed in this state, would constitute a dangerous felony. If a felony offense in a jurisdiction other than Tennessee is not identified as a dangerous felony in this state, it shall be considered a prior conviction if the elements of the felony are the same as the elements for a dangerous felony; and

(3) “Separate period of incarceration or supervision” includes a sentence to any of the sentencing alternatives set out in § 40-35-104(c)(3)-(9). A dangerous felony shall be considered as having been committed after a separate period of incarceration or supervision if the dangerous felony is committed while the person was:

(A) On probation, parole or community correction supervision for a dangerous felony;

(B) Incarcerated for a dangerous felony;

(C) Assigned to a program whereby the person enjoys the privilege of supervised release into the community, including, but not limited to, work release, educational release, restitution release or medical furlough for a dangerous felony; or

(D) On escape status from any correctional institution when incarcerated for a dangerous felony.

(j) Any person convicted under this section who has a prior conviction under

this section shall be sentenced to incarceration with the department of correction for not less than fifteen (15) years. A person sentenced under this subsection (j) shall serve one hundred percent (100%) of the sentence imposed.

39-17-1350. Law enforcement officers permitted to carry firearms — Exceptions — Restrictions — Identification card for corrections officers.

(a) Notwithstanding any law to the contrary, any law enforcement officer may carry firearms at all times and in all places within Tennessee, on-duty or off-duty, regardless of the officer's regular duty hours or assignments, except as provided by subsection (c), federal law, lawful orders of court or the written directives of the executive supervisor of the employing agency.

(b) The authority conferred by this section is expressly intended to and shall supersede restrictions placed upon law enforcement officers' authority to carry firearms by other sections within this part.

(c) The authority conferred by this section shall not extend to a law enforcement officer:

(1) Who is not engaged in the actual discharge of official duties as a law enforcement officer and carries a firearm onto school grounds or inside a school building during regular school hours unless the officer immediately informs the principal that the officer will be present on school grounds or inside the school building and in possession of a firearm. If the principal is unavailable, the notice may be given to an appropriate administrative staff person in the principal's office;

(2) Who is consuming beer or an alcoholic beverage or who is under the influence of beer, an alcoholic beverage, or a controlled substance or controlled substance analogue; or

(3) Who is not engaged in the actual discharge of official duties as a law enforcement officer while attending a judicial proceeding.

(d)(1) For purposes of this section, "law enforcement officer" means a person who is a full-time employee of the state in a position authorized by the laws of this state to carry a firearm and to make arrests for violations of some or all of the laws of this state, or a full-time police officer who has been certified by the peace officer standards and training commission, or a commissioned reserve deputy sheriff as authorized in writing by the sheriff, or a commissioned reserve or auxiliary police officer as authorized in writing by the chief of police, or a sheriff who has been certified by the peace officer standards and training commission, or a deputy sheriff employed by a county as a court officer or corrections officer as authorized in writing by the sheriff.

(2) For purposes of this section, "law enforcement officer" also means an inmate relations coordinator who is employed by the department of correction and has completed the probationary period established for an inmate relations coordinator, a correctional officer who is employed by the department of correction and has completed the probationary period established for a correctional officer, a person employed by the department of correction as a warden, deputy warden, associate warden, correctional administrator, assistant or deputy commissioner, or commissioner who has successfully completed any probationary period if required for those positions and who has successfully completed firearms training in accordance with department of correction standards, which standards shall include, at a minimum, forty

(40) hours initial training and eight (8) hours annual in-service training in firearms qualification administered by an instructor with certification from the Tennessee Correction Academy's firearms instructor program or from a police firearms instructor training program conducted or sanctioned by the federal bureau of investigation or the National Rifle Association.

(3) For purposes of this section, "law enforcement officer" also means a duly elected and sworn constable in a county where constables retain law enforcement powers and duties under § 8-10-108; provided, that the constable receives, at a minimum, forty (40) hours initial training, within one (1) year of election, and eight (8) hours annual in-service training in firearms qualification administered by a certified law enforcement firearms instructor.

(4)(A) For purposes of this section, "law enforcement officer" also means a person who has successfully completed firearms training in accordance with POST certification, which shall include, at a minimum, forty (40) hours initial training and eight (8) hours annual in-service training in firearms qualification administered by a POST-certified firearms training program and is:

- (i) An elected district attorney general;
- (ii) A full-time assistant district attorney general who has been authorized pursuant to subdivision (d)(4)(B);
- (iii) The executive director or deputy director of the district attorneys general conference; or
- (iv) A full-time, pro-tem prosecutor employed by the district attorneys general conference.

(B) Each elected district attorney general, at such district attorney general's discretion, is authorized to determine if any assistant district attorney general in the district attorney general's office or judicial district is authorized to carry a firearm pursuant to this section.

(C) The district attorneys general conference shall develop a uniform identification system clearly identifying that a person described in subdivision (d)(4)(A) is qualified under this section to carry a firearm at all times. Persons authorized by this subdivision (d)(4) to carry a firearm under this section shall carry this identification at all times the person is carrying a firearm.

(e) In counties having a population of not less than thirty thousand two hundred (30,200) nor more than thirty thousand four hundred seventy-five (30,475) or not less than one hundred eighteen thousand four hundred (118,400) nor more than one hundred eighteen thousand seven hundred (118,700), according to the 1990 federal census or any subsequent federal census, the authority conferred by this section shall only apply to law enforcement officers who are law enforcement officers for those counties or law enforcement officers for municipalities located therein.

(f)(1) The secretary of state shall, in consultation with the commissioner of correction, design and issue to each requesting inmate relations coordinator or correctional officer who is vested and employed by the department of correction, a state identification card certifying that the inmate relations coordinator or correctional officer is authorized to carry a firearm pursuant to this section.

(2) Any inmate relations coordinator or correctional officer desiring an identification card shall notify the secretary of state and shall provide the

inmate relations coordinator's or correctional officer's full name and residential address. Upon receipt of the request, the secretary of state shall notify the commissioner of correction of the request. The commissioner of correction shall verify to the secretary of state whether the requesting inmate relations coordinator or correctional officer is vested and employed by the department of correction and shall so certify in a letter to be maintained by the secretary.

(3) If the secretary of state receives certification that a requesting inmate relations coordinator or correctional officer is vested and employed by the department, the secretary shall issue the inmate relations coordinator or correctional officer an identification card so certifying. The card shall be valid for as long as the inmate relations coordinator or correctional officer remains vested and in the employment of the department of correction.

(4) An inmate relations coordinator or correctional officer issued a card pursuant to this subsection (f) shall carry the card at all times the inmate relations coordinator or correctional officer is carrying a firearm. The card shall be sufficient proof that the inmate relations coordinator or correctional officer is authorized to carry a firearm pursuant to this section.

(5) If a vested inmate relations coordinator or correctional officer employed by the department resigns, is terminated, or is otherwise no longer employed by the department, the commissioner shall, within ten (10) days, so notify the secretary of state. Upon receiving the notice, the secretary of state shall revoke the identification card and send a letter of revocation to the inmate relations coordinator or correctional officer at the coordinator's or officer's last known address.

(6)(A) A person who is no longer a vested inmate relations coordinator or correctional officer employed by the department of correction but who still has an identification card issued by the secretary of state shall have ten (10) days from receipt of the letter of revocation from the secretary of state to return the card to the secretary.

(B) It is a Class C misdemeanor punishable by fine only of fifty dollars (\$50.00) for a person to knowingly fail to return an identification card as required by subdivision (f)(6)(A).

(g) Notwithstanding any law to the contrary, a community corrections officer who holds a valid Tennessee handgun carry permit may carry a handgun at all times and in all places in Tennessee while in the course of employment and engaged in the actual discharge of official duties, except as provided by subsection (c), federal law, or lawful orders of court. This subsection applies to community corrections officers employed in counties having a population, according to the 2010 federal census or any subsequent federal census of:

<u>not less than</u>	<u>nor more than</u>
32,200	32,300
22,600	22,675
6,800	6,900
56,800	56,900
51,400	51,500
19,100	19,150

**39-17-1351. Handgun carry permits. [Effective until January 1, 2020.
See the version effective on January 1, 2020.]**

(a) The citizens of this state have a right to keep and bear arms for their common defense; but the general assembly has the power, by law, to regulate the wearing of arms with a view to prevent crime.

(b) Except as provided in subsection (r), any resident of Tennessee who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, may apply to the department of safety for a handgun carry permit. If the applicant is not prohibited from possessing a firearm in this state pursuant to § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant; provided:

- (1) The applicant is at least twenty-one (21) years of age; or
- (2) The applicant is at least eighteen (18) years of age; and
 - (A)(i) Is an honorably discharged or retired veteran of the United States armed forces; and
 - (ii) Includes with the application a certified copy of the applicant's certificate of release or discharge from active duty, department of defense form 214 (DD 214);
 - (B)(i) Is an honorably discharged member of the army national guard, the army reserve, the navy reserve, the marine corps reserve, the air national guard, the air force reserve, or the coast guard reserve, who has successfully completed a basic training program; and
 - (ii) Includes with the application a certified copy of the applicant's honorable discharge certificate, department of defense form 256 (DD 256), or report of separation and record of service, NGB form 22, that indicates an honorable discharge characterization; or
 - (C)(i) Is a member of the United States armed forces on active duty status or is a current member of the army national guard, the army reserve, the navy reserve, the marine corps reserve, the air national guard, the air force reserve, or the coast guard reserve, who has successfully completed a basic training program; and
 - (ii) Includes with the application a military identification card or such other document as the commissioner designates as sufficient proof that the applicant is an active duty member of the military or a current member of the national guard or United States military reserve, who has successfully completed a basic training program.

(c) The application for a permit shall be on a standard form developed by the department. The application shall clearly state in bold face type directly above the signature line that an applicant who, with intent to deceive, makes any false statement on the application commits the felony offense of perjury pursuant to § 39-16-702. The following are eligibility requirements for obtaining a handgun carry permit and the application shall require the applicant to disclose and confirm compliance with, under oath, the following information concerning the applicant and the eligibility requirements:

- (1) Full legal name and any aliases;
- (2) Addresses for the last five (5) years;
- (3) Date of birth;
- (4) Social security number;
- (5) Physical description (height, weight, race, sex, hair color and eye

color);

(6) That the applicant has not been convicted of a criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in subdivisions (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices;

(7) That the applicant is not currently under indictment or information for any criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in subdivisions (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices;

(8) That the applicant is not currently subject to any order of protection and, if so, the applicant shall provide a copy of the order;

(9) That the applicant is not a fugitive from justice;

(10) That the applicant is not an unlawful user of or addicted to alcohol, any controlled substance or controlled substance analogue, and the applicant has not been either:

(A) A patient in a rehabilitation program pursuant to a court order or hospitalized for alcohol, controlled substance or controlled substance analogue abuse or addiction pursuant to a court order within ten (10) years from the date of application; or

(B) A voluntary patient in a rehabilitation program or voluntarily hospitalized for alcohol, controlled substance or controlled substance analogue abuse or addiction within three (3) years from the date of application;

(11) That the applicant has not been convicted of the offense of driving under the influence of an intoxicant in this or any other state two (2) or more times within ten (10) years from the date of the application and that none of the convictions has occurred within five (5) years from the date of application or renewal;

(12) That the applicant has not been adjudicated as a mental defective, has not been judicially committed to or hospitalized in a mental institution pursuant to title 33, has not had a court appoint a conservator for the applicant by reason of a mental defect, has not been judicially determined to be disabled by reason of mental illness, developmental disability or other mental incapacity, and has not, within seven (7) years from the date of application, been found by a court to pose an immediate substantial likelihood of serious harm, as defined in title 33, chapter 6, part 5, because of mental illness;

(13) That the applicant is not an alien and is not illegally or unlawfully in the United States;

(14) That the applicant has not been discharged from the armed forces under dishonorable conditions;

(15) That the applicant has not renounced the applicant's United States citizenship;

(16) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921;

(17) That the applicant is not receiving social security disability benefits by reason of alcohol dependence, drug dependence or mental disability; and

(18) That the applicant has not been convicted of the offense of stalking.

(d)(1) In addition to the information required under subsection (c), the applicant shall be required to provide two (2) full sets of classifiable fingerprints at the time the application is filed with the department. The applicant's fingerprints may be taken by the department at the time the application is submitted or the applicant may have the fingerprints taken at any sheriff's office and submit the fingerprints to the department along with the application and other supporting documents. The sheriff may charge a fee not to exceed five dollars (\$5.00) for taking the applicant's fingerprints. At the time an applicant's fingerprints are taken either by the department or a sheriff's office, the applicant shall be required to present a photo identification. If the person requesting fingerprinting is not the same person as the person whose picture appears on the photo identification, the department or sheriff shall refuse to take the fingerprints. The department shall also be required to photograph the applicant in a manner that is suitable for use on the permit.

(2) An applicant shall also be required to present a photo identification to the department at the time of filing the application. If the name on the photo identification, name on the application and name on the fingerprint card, if taken by a sheriff, are not the same, the department shall refuse to accept the application. If the person whose picture appears on the photo identification is not the same as the applicant, the department shall refuse to accept the application.

(e) The department shall also require an applicant to submit proof of the successful completion of a department approved handgun safety course within one (1) year of the date of application. Any form created by the department to show proof of the successful completion of a department approved handgun safety course shall not require the applicant to provide the applicant's social security number. Any instructor of a department approved handgun safety course shall not withhold proof of the successful completion of the course solely on the fact the applicant did not disclose the applicant's social security number. The course shall include both classroom hours and firing range hours; provided, that an applicant shall not be required to comply with the firing range requirements if the applicant submits proof to the department that the applicant has successfully passed small arms qualification training or combat pistol training in any branch of the United States armed forces. Beginning September 1, 2010, and thereafter, a component of the classroom portion of all department-approved handgun safety courses shall be instruction on alcohol and drugs, the effects of those substances on a person's reflexes, judgment and ability to safely handle a firearm, and § 39-17-1321. An applicant shall not be required to comply with the firing range and classroom hours requirements of this subsection (e) if the applicant submits proof to the department that within five (5) years from the date the application for a handgun carry permit is filed the applicant has:

- (1) Been certified by the peace officer standards and training commission;
- (2) Successfully completed training at the law enforcement training academy;
- (3) Successfully completed the firearms training course required for armed security guard/officer registration, pursuant to § 62-35-118(b);
- (4) Successfully completed all handgun training of not less than four (4) hours as required by any branch of the military; provided, however, that an

applicant who seeks waiver of the training course pursuant to this subdivision (e)(4) may have completed the military handgun training at any time prior to submission of proof; or

(5) Successfully completed Tennessee department of correction firearms qualification.

(f) The department shall make applications for permits available for distribution at any location where the department conducts driver license examinations.

(g)(1) Upon receipt of a permit application, the department shall:

(A) Forward two (2) full sets of fingerprints of the applicant to the Tennessee bureau of investigation; and

(B) Send a copy of the application to the sheriff of the county in which the applicant resides.

(2) Within thirty (30) days of receiving an application, the sheriff shall provide the department with any information concerning the truthfulness of the applicant's answers to the eligibility requirements of subsection (c) that is within the knowledge of the sheriff.

(h) Upon receipt of the fingerprints from the department, the Tennessee bureau of investigation shall:

(1) Within thirty (30) days from receipt of the fingerprints, conduct computer searches to determine the applicant's eligibility for a permit under subsection (c) as are available to the bureau based solely upon the applicant's name, date of birth and social security number and send the results of the searches to the department;

(2) Conduct a criminal history record check based upon one (1) set of the fingerprints received and send the results to the department; and

(3) Send one (1) set of the fingerprints received from the department to the federal bureau of investigation, request a federal criminal history record check based upon the fingerprints, as long as the service is available, and send the results of the check to the department.

(i) The department shall deny a permit application if it determines from information contained in the criminal history record checks conducted by the Tennessee and federal bureaus of investigation pursuant to subsection (h), from information received from the clerks of court regarding individuals adjudicated as a mental defective or judicially committed to a mental institution pursuant to title 33, or from other information that comes to the attention of the department, that the applicant does not meet the eligibility requirements of this section. The department shall not be required to confirm the applicant's eligibility for a permit beyond the information received from the Tennessee and federal bureaus of investigation, the clerks of court and the sheriffs, if any.

(j) The department shall not deny a permit application if:

(1) The existence of any arrest or other records concerning the applicant for any indictment, charge or warrant have been judicially or administratively expunged;

(2) An applicant's conviction has been set aside by a court of competent jurisdiction;

(3) The applicant, who was rendered infamous or deprived of the rights of citizenship by judgment of any state or federal court, has had the applicant's full rights of citizenship duly restored pursuant to procedures set forth within title 40, chapter 29, or other federal or state law; provided, however,

that this subdivision (j)(3) shall not apply to any person who has been convicted of a felony crime of violence, an attempt to commit a felony crime of violence, a felony drug offense, or a felony offense involving use of a deadly weapon; or

(4) The applicant, who was adjudicated as a mental defective or judicially committed to a mental institution, as defined in § 39-17-1301, has had the applicant's firearm disability removed by an order of the court pursuant to title 16, and either a copy of that order has been provided to the department by the TBI or a certified copy of that court order has been provided to the department by the applicant.

(k) If the department denies an application, the department shall notify the applicant in writing within ten (10) days of the denial. The written notice shall state the specific factual basis for the denial. It shall include a copy of any reports, records or inquiries reviewed or relied upon by the department.

(l) The department shall issue a permit to an applicant not prohibited from obtaining a permit under this section no later than ninety (90) days after the date the department receives the application. A permit issued prior to the department's receipt of the Tennessee and federal bureaus of investigation's criminal history record checks based upon the applicant's fingerprints shall be subject to immediate revocation if either record check reveals that the applicant is not eligible for a permit pursuant to this section.

(m) A permit holder shall not be required to complete a handgun safety course to maintain or renew a handgun carry permit. No permit holder shall be required to complete any additional handgun safety course after obtaining a handgun carry permit. No person shall be required to complete any additional handgun safety course if the person applies for a renewal of a handgun carry permit within eight (8) years from the date of expiration.

(n)(1) Except as provided in subdivision (n)(2) and subsection (x), a permit issued pursuant to this section shall be good for eight (8) years and shall entitle the permit holder to carry any handgun or handguns that the permit holder legally owns or possesses. The permit holder shall have the permit in the holder's immediate possession at all times when carrying a handgun and shall display the permit on demand of a law enforcement officer.

(2) A Tennessee permit issued pursuant to this section to a person who is in or who enters into the United States armed forces shall continue in effect for so long as the person's service continues and the person is stationed outside this state, notwithstanding the fact that the person may be temporarily in this state on furlough, leave, or delay en route, and for a period not to exceed sixty (60) days following the date on which the person is honorably discharged or separated from service or returns to this state on reassignment to a duty station in this state, unless the permit is sooner suspended, cancelled or revoked for cause as provided by law. The permit is valid only when in the immediate possession of the permit holder and the permit holder has in the holder's immediate possession the holder's discharge or separation papers, if the permit holder has been discharged or separated from the service.

(3) After the initial issuance of a handgun carry permit, the department shall conduct a name-based criminal history record check every four (4) years or upon receipt of an application.

(o) **[Contingent effective date for (o)(2), see Compiler's Notes.]** The permit shall be issued on a wallet-sized laminated card of the same approximate size as is used by this state for driver licenses and shall contain only the

following information concerning the permit holder:

- (1) The permit holder's name, address and date of birth;
 - (2) A description of the permit holder by sex, height, weight and eye color;
 - (3) A color photograph of the permit holder; and
 - (4) The permit number, issuance date, and expiration date.
- (o)(1) The permit shall be issued on a wallet-sized laminated card of the same approximate size as is used by this state for driver licenses and shall contain only the following information concerning the permit holder:
- (A) The permit holder's name, address and date of birth;
 - (B) A description of the permit holder by sex, height, weight and eye color;
 - (C) A color photograph of the permit holder; and
 - (D) The permit number, issuance date, and expiration date.

(2) **[Contingent effective date, see Compiler's Notes.]** The following language must be printed on the back of the card: This permit is valid beyond the expiration date if the permit holder can provide documentation of the holder's active military status and duty station outside Tennessee.

(p)(1) Except as provided in subsection (x), the department shall charge an application and processing fee of one hundred dollars (\$100). The fee shall cover all aspects of processing the application and issuing a permit. In addition to any other portion of the permit application fee that goes to the Tennessee bureau of investigation, fifteen dollars (\$15.00) of the fee shall go to the bureau for the sole purpose of updating and maintaining its fingerprint criminal history data base. On an annual basis, the comptroller of the treasury shall audit the bureau to ensure that the extra fifteen dollars (\$15.00) received from each handgun permit application fee is being used exclusively for the purpose set forth in this subsection (p). By February 1 of each year the bureau shall provide documentation to the judiciary committee of the senate and the judiciary committee of the house of representatives that the extra fifteen dollars (\$15.00) is being used exclusively for the intended purposes. The documentation shall state in detail how the money earmarked for fingerprint data base updating and maintenance was spent, the number and job descriptions of any employees hired and the type and purpose of any equipment purchased. Any person, who has been honorably discharged from any branch of the United States armed forces or who is on active duty in any branch of the armed forces or who is currently serving in the national guard or armed forces reserve, and who makes initial application for a handgun carry permit shall be required to pay only that portion of the initial application fee that is necessary to conduct the required criminal history record checks.

(2) The provisions of subdivision (p)(1) increasing each permit application fee by fifteen dollars (\$15.00) for the purpose of fingerprint data base updating and maintenance shall not take effect if the general appropriation act provides a specific appropriation in the amount of two hundred fifty thousand dollars (\$250,000), to defray the expenses contemplated in subdivision (p)(1). If the appropriation is not included in the general appropriations act, the fifteen dollar (\$15.00) permit fee increase imposed by subdivision (p)(1) shall take effect on July 1, 1997, the public welfare requiring it.

(3) Beginning July 1, 2008, fifteen dollars (\$15.00) of the fee established in subdivision (p)(1) shall be submitted to the sheriff of the county where the applicant resides for the purpose of verifying the truthfulness of the

applicant's answers as provided in subdivision (g)(1).

(q)(1) Prior to the expiration of a permit, a permit holder may apply to the department for the renewal of the permit by submitting, under oath, a renewal application with a renewal fee of fifty dollars (\$50.00). The renewal application shall be on a standard form developed by the department of safety and shall require the applicant to disclose, under oath, the information concerning the applicant as set forth in subsection (c), and shall require the applicant to certify that the applicant still satisfies all the eligibility requirements of this section for the issuance of a permit. In the event the permit expires prior to the department's approval or issuance of notice of denial regarding the renewal application, the permit holder shall be entitled to continue to use the expired permit; provided, however, that the permit holder shall also be required to prove by displaying a receipt for the renewal application fee that the renewal application was delivered to the department prior to the expiration date of the permit. The department is authorized to contract with a local government agency for the provision of any service related to the renewal of handgun carry permits, subject to applicable contracting statutes and regulations. An agency contracting with the department is authorized to charge an additional fee of four dollars (\$4.00) for each renewal application, which shall be retained by the agency for administrative costs.

(2)(A) A person may renew that person's handgun carry permit beginning six (6) months prior to the expiration date on the face of the card, and, if the permit is not expired, the person shall only be required to comply with the renewal provisions of subdivision (q)(1).

(B) Any person who applies for renewal of that person's handgun carry permit after the expiration date on the face of the card shall only be required to comply with the renewal provisions of subdivision (q)(1) unless the permit has been expired for more than eight (8) years.

(C) Any person who applies for renewal of a handgun carry permit when the permit has been expired for more than eight (8) years, shall, for all purposes, be considered a new applicant.

(3) If a person whose handgun carry permit remained valid pursuant to subdivision (n)(2) because the person was in the United States armed forces applies for a renewal of the permit within eight (8) years of the expiration of the sixty (60) day period following discharge, separation, or return to this state on reassignment to a duty station in this state as provided in subdivision (n)(2), the person shall only be required to comply with the renewal provisions of subdivision (q)(1). If the renewal application is filed eight (8) years or more from expiration of the sixty (60) day period following the date of honorable discharge, separation, or return to this state on reassignment to a duty station in this state, the person shall, for all purposes, be considered a new applicant.

(r)(1) A facially valid handgun permit, firearms permit, weapons permit or license issued by another state shall be valid in this state according to its terms and shall be treated as if it is a handgun permit issued by this state; provided, however, this subsection (r) shall not be construed to authorize the holder of any out-of-state permit or license to carry, in this state, any firearm or weapon other than a handgun.

(2) For a person to lawfully carry a handgun in this state based upon a permit or license issued in another state, the person must be in possession of the permit or license at all times the person carries a handgun in this

state.

(3)(A) The commissioner of safety shall enter into written reciprocity agreements with other states that require the execution of the agreements. The commissioner of safety shall prepare and publicly publish a current list of states honoring permits issued by the state of Tennessee and shall make the list available to anyone upon request. The commissioner of safety shall also prepare and publicly publish a current list of states who, after inquiry by the commissioner, refuse to enter into a reciprocity agreement with this state or honor handgun carry permits issued by this state. To the extent that any state may impose conditions in the reciprocity agreements, the commissioner of safety shall publish those conditions as part of the list. If another state imposes conditions on Tennessee permit holders in a reciprocity agreement, the conditions shall also become a part of the agreement and apply to the other state's permit holders when they carry a handgun in this state.

(B) If a person with a handgun permit from another state decides to become a resident of Tennessee, the person must obtain a Tennessee handgun permit within six (6) months of establishing residency in Tennessee. The permit may be issued based on the person having a permit from another state provided the other state has substantially similar permit eligibility requirements as this state. However, if during the six-month period the person applies for a handgun permit in this state and the application is denied, the person shall not be allowed to carry a handgun in this state based upon the other state's permit.

(C)(i) If a person who is a resident of and handgun permit holder in another state is employed in this state on a regular basis and desires to carry a handgun in this state, the person shall have six (6) months from the last day of the sixth month of regular employment in this state to obtain a Tennessee handgun carry permit. The permit may be issued based on the person having a permit from another state provided the other state has substantially similar permit eligibility requirements as this state. However, if during the six-month period the person applies for a handgun permit in this state and the application is denied, the person shall not be allowed to carry a handgun in this state based upon the other state's permit.

(ii) This subdivision (r)(3)(C) shall not apply if the state of residence of the person employed in Tennessee has entered into a handgun permit reciprocity agreement with this state pursuant to this subsection (r).

(iii) As used in this subdivision (r)(3)(C), "employed in this state on a regular basis" means a person has been gainfully employed in this state for at least thirty (30) hours a week for six (6) consecutive months not counting any absence from employment caused by the employee's use of sick leave, annual leave, administrative leave or compensatory time.

(s)(1) The department shall make available, on request and payment of a reasonable fee to cover the costs of copying, a statistical report that includes the number of permits issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender and zip code of the applicant or permit holder and the reason for any permit revocation or suspension. The report shall also include the cost of the program, the revenues derived from fees, the number of violations of the handgun carry permit law, and the average time for issuance of a handgun carry permit. By January 1 of each year, a copy of the statistical reports for the preceding

calendar year shall be provided to each member of the general assembly.

(2)(A) The department shall maintain statistics related to responses by law enforcement agencies to incidents in which a person who has a permit to carry a handgun under this section is arrested and booked for any offense.

(B) The department by rule promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, shall adopt procedures for state and local law enforcement officials to report the information required by subdivision (s)(2)(A) to the department.

(t) Any law enforcement officer of this state or of any county or municipality may, within the realm of the officer's lawful jurisdiction and when the officer is acting in the lawful discharge of the officer's official duties, disarm a permit holder at any time when the officer reasonably believes it is necessary for the protection of the permit holder, officer or other individual or individuals. The officer shall return the handgun to the permit holder before discharging the permit holder from the scene when the officer has determined that the permit holder is not a threat to the officer, to the permit holder, or other individual or individuals; provided, that the permit holder has not violated any provision of this section and provided the permit holder has not committed any other violation that results in the arrest of the permit holder.

(u) Substantial compliance with the requirements of this section shall provide the department and any political subdivision thereof with immunity from civil liability alleging liability for issuance of the permit.

(v) Any permit issued pursuant to this section shall be deemed a "license" within the meaning of title 36, chapter 5, part 7, dealing with the enforcement of child support obligations through license denial and revocation.

(w)(1) Notwithstanding any other law or rule to the contrary, neither the department nor an instructor or employee of a department approved handgun safety course is authorized to require any applicant for a handgun carry permit to furnish or reveal identifying information concerning any handgun the applicant owns, possesses or uses during the safety course in order to apply for or be issued the permit.

(2) For purposes of subdivision (w)(1), "identifying information concerning any handgun" includes, but is not limited to, the serial number, model number, make of gun or manufacturer, type of gun, such as revolver or semi-automatic, caliber or whether the applicant owns the handgun used for the safety course.

(x)(1) Any resident of Tennessee who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, who has reached twenty-one (21) years of age, may apply to the department of safety for a lifetime handgun carry permit. If the applicant is not prohibited from purchasing or possessing a firearm in this state pursuant to § 39-17-1316 or § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant. The lifetime handgun carry permit shall entitle the permit holder to carry any handgun or handguns the permit holder legally owns or possesses and shall entitle the permit holder to any privilege granted to handgun carry permit holders. The requirements imposed on handgun carry permit holders by this section shall also apply to lifetime handgun carry permit holders.

(2) The department shall charge an application and processing fee for a lifetime handgun carry permit equal to the application and processing fee

charged under subsection (p) plus a lifetime handgun carry permit fee of two hundred dollars (\$200); provided, however, that a permit holder who is applying for the renewal of a handgun carry permit under subsection (q) may instead obtain a lifetime handgun carry permit by submitting to the department a fee of two hundred dollars (\$200). The application process shall otherwise be the same as the application process for a handgun carry permit as set out in this section. Any funds from the fees paid pursuant to this subdivision (x)(2) that are not used for processing applications and issuing permits shall be retained by the department to fund any necessary system modifications required to create a lifetime handgun carry permit and monitor the eligibility of lifetime handgun carry permit holders as required by subdivision (x)(3).

(3) A lifetime handgun carry permit shall not expire and shall continue to be valid for the life of the permit holder unless the permit holder no longer meets the requirements of this section. A lifetime handgun carry permit shall not be subject to renewal; provided, however, that every five (5) years after issuance of the lifetime handgun carry permit, the department shall conduct a criminal history record check in the same manner as required for handgun carry permit renewals. Upon discovery that a lifetime handgun carry permit holder no longer satisfies the requirements of this section, the department shall suspend or revoke the permit pursuant to § 39-17-1352.

(4)(A) If the lifetime handgun carry permit holder's permit is suspended or revoked, the permit holder shall deliver, in person or by mail, the permit to the department within thirty (30) days of the suspension or revocation.

(B) If the department does not receive the lifetime handgun carry permit holder's suspended or revoked permit within thirty (30) days of the suspension or revocation, the department shall send notice to the permit holder that:

(i) The permit holder has thirty (30) days from the date of the notice to deliver the permit, in person or by mail, to the department; and

(ii) If the permit holder fails to deliver the suspended or revoked permit to the department within thirty (30) days of the date of the notice, the department will suspend the permit holder's driver license.

(C) If the department does not receive the lifetime handgun carry permit holder's suspended or revoked permit within thirty (30) days of the date of the notice provided by the department, the department shall suspend the permit holder's driver license in the same manner as provided in § 55-50-502.

(5) The total fee required by subdivision (x)(2) shall be waived if the applicant:

(A) Is a former federal, state, or local law enforcement officer, as defined in § 39-11-106;

(B) Served for at least ten (10) years prior to leaving the law enforcement agency and was POST-certified, or had equivalent training, on the date the officer left the law enforcement agency;

(C) Was in good standing at the time of leaving the law enforcement agency, as certified by the chief law enforcement officer or designee of the organization that employed the applicant; and

(D) Is a resident of this state on the date of the application.

(y) An applicant shall not be required to comply with the firing range requirements of this section if the applicant:

600

- (1) Is an active duty service member or honorably discharged or retired veteran of the United States armed forces;
- (2) Has a military occupational specialty, special qualification identifier, skill identifier, specialty code, or rating that identifies a service qualification in military police, special operations, or special forces; and
- (3) Presents to the department a certified copy of the applicant's certificate of release or discharge from active duty, department of defense form 214 (DD 214), or other official documentation that provides proof of the service criteria required under this subsection (y).

39-17-1351. Enhanced handgun carry permit. [Effective on January 1, 2020. See the version effective until January 1, 2020. Additional contingent effective date, see Compiler's Notes.]

(a) The citizens of this state have a right to keep and bear arms for their common defense; but the general assembly has the power, by law, to regulate the wearing of arms with a view to prevent crime.

(b) Except as provided in subsection (r), any resident of Tennessee who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, may apply to the department of safety for an enhanced handgun carry permit. If the applicant is not prohibited from possessing a firearm in this state pursuant to § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant; provided:

- (1) The applicant is at least twenty-one (21) years of age; or*
- (2) The applicant is at least eighteen (18) years of age; and*
 - (A)(i) Is an honorably discharged or retired veteran of the United States armed forces; and*
 - (ii) Includes with the application a certified copy of the applicant's certificate of release or discharge from active duty, department of defense form 214 (DD 214);*
 - (B)(i) Is an honorably discharged member of the army national guard, the army reserve, the navy reserve, the marine corps reserve, the air national guard, the air force reserve, or the coast guard reserve, who has successfully completed a basic training program; and*
 - (ii) Includes with the application a certified copy of the applicant's honorable discharge certificate, department of defense form 256 (DD 256), or report of separation and record of service, NGB form 22, that indicates an honorable discharge characterization; or*
 - (C)(i) Is a member of the United States armed forces on active duty status or is a current member of the army national guard, the army reserve, the navy reserve, the marine corps reserve, the air national guard, the air force reserve, or the coast guard reserve, who has successfully completed a basic training program; and*
 - (ii) Includes with the application a military identification card or such other document as the commissioner designates as sufficient proof that the applicant is an active duty member of the military or a current member of the national guard or United States military reserve, who has successfully completed a basic training program.*
- (c) The application for a permit shall be on a standard form developed by the*

department. The application shall clearly state in bold face type directly above the signature line that an applicant who, with intent to deceive, makes any false statement on the application commits the felony offense of perjury pursuant to § 39-16-702. The following are eligibility requirements for obtaining an enhanced handgun carry permit and the application shall require the applicant to disclose and confirm compliance with, under oath, the following information concerning the applicant and the eligibility requirements:

- (1) Full legal name and any aliases;*
- (2) Addresses for the last five (5) years;*
- (3) Date of birth;*
- (4) Social security number;*
- (5) Physical description (height, weight, race, sex, hair color and eye color);*
- (6) That the applicant has not been convicted of a criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in subdivisions (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices;*
- (7) That the applicant is not currently under indictment or information for any criminal offense that is designated as a felony, or that is one of the disqualifying misdemeanors set out in subdivisions (c)(11), (c)(16), or (c)(18), with the exception of any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulations of business practices;*
- (8) That the applicant is not currently subject to any order of protection and, if so, the applicant shall provide a copy of the order;*
- (9) That the applicant is not a fugitive from justice;*
- (10) That the applicant is not an unlawful user of or addicted to alcohol, any controlled substance or controlled substance analogue, and the applicant has not been either:*
 - (A) A patient in a rehabilitation program pursuant to a court order or hospitalized for alcohol, controlled substance or controlled substance analogue abuse or addiction pursuant to a court order within ten (10) years from the date of application; or*
 - (B) A voluntary patient in a rehabilitation program or voluntarily hospitalized for alcohol, controlled substance or controlled substance analogue abuse or addiction within three (3) years from the date of application;*
- (11) That the applicant has not been convicted of the offense of driving under the influence of an intoxicant in this or any other state two (2) or more times within ten (10) years from the date of the application and that none of the convictions has occurred within five (5) years from the date of application or renewal;*
- (12) That the applicant has not been adjudicated as a mental defective, has not been judicially committed to or hospitalized in a mental institution pursuant to title 33, has not had a court appoint a conservator for the applicant by reason of a mental defect, has not been judicially determined to be disabled by reason of mental illness, developmental disability or other mental incapacity, and has not, within seven (7) years from the date of application, been found by a court to pose an immediate substantial likelihood of serious harm, as defined in title 33, chapter 6, part 5, because of*

mental illness;

(13) That the applicant is not an alien and is not illegally or unlawfully in the United States;

(14) That the applicant has not been discharged from the armed forces under dishonorable conditions;

(15) That the applicant has not renounced the applicant's United States citizenship;

(16) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921;

(17) That the applicant is not receiving social security disability benefits by reason of alcohol dependence, drug dependence or mental disability; and

(18) That the applicant has not been convicted of the offense of stalking.

(d)(1) In addition to the information required under subsection (c), the applicant shall be required to provide two (2) full sets of classifiable fingerprints at the time the application is filed with the department. The applicant's fingerprints may be taken by the department at the time the application is submitted or the applicant may have the fingerprints taken at any sheriff's office and submit the fingerprints to the department along with the application and other supporting documents. The sheriff may charge a fee not to exceed five dollars (\$5.00) for taking the applicant's fingerprints. At the time an applicant's fingerprints are taken either by the department or a sheriff's office, the applicant shall be required to present a photo identification. If the person requesting fingerprinting is not the same person as the person whose picture appears on the photo identification, the department or sheriff shall refuse to take the fingerprints. The department shall also be required to photograph the applicant in a manner that is suitable for use on the permit.

(2) An applicant shall also be required to present a photo identification to the department at the time of filing the application. If the name on the photo identification, name on the application and name on the fingerprint card, if taken by a sheriff, are not the same, the department shall refuse to accept the application. If the person whose picture appears on the photo identification is not the same as the applicant, the department shall refuse to accept the application.

(e) The department shall also require an applicant to submit proof of the successful completion of a department approved handgun safety course within one (1) year of the date of application. Any form created by the department to show proof of the successful completion of a department approved handgun safety course shall not require the applicant to provide the applicant's social security number. Any instructor of a department approved handgun safety course shall not withhold proof of the successful completion of the course solely on the fact the applicant did not disclose the applicant's social security number. The course shall include both classroom hours and firing range hours; provided, that an applicant shall not be required to comply with the firing range requirements if the applicant submits proof to the department that the applicant has successfully passed small arms qualification training or combat pistol training in any branch of the United States armed forces. Beginning September 1, 2010, and thereafter, a component of the classroom portion of all department-approved handgun safety courses shall be instruction on alcohol and drugs, the effects of those substances on a person's reflexes, judgment and ability to safely handle a firearm, and § 39-17-1321. An applicant shall not be required to

comply with the firing range and classroom hours requirements of this subsection (e) if the applicant submits proof to the department that within five (5) years from the date the application for an enhanced handgun carry permit is filed the applicant has:

- (1) Been certified by the peace officer standards and training commission;*
- (2) Successfully completed training at the law enforcement training academy;*
- (3) Successfully completed the firearms training course required for armed security guard/officer registration, pursuant to § 62-35-118(b);*
- (4) Successfully completed all handgun training of not less than four (4) hours as required by any branch of the military; provided, however, that an applicant who seeks waiver of the training course pursuant to this subdivision (e)(4) may have completed the military handgun training at any time prior to submission of proof; or*
- (5) Successfully completed Tennessee department of correction firearms qualification.*
- (f) The department shall make applications for permits available for distribution at any location where the department conducts driver license examinations.*
- (g)(1) Upon receipt of a permit application, the department shall:*
 - (A) Forward two (2) full sets of fingerprints of the applicant to the Tennessee bureau of investigation; and*
 - (B) Send a copy of the application to the sheriff of the county in which the applicant resides.*
- (2) Within thirty (30) days of receiving an application, the sheriff shall provide the department with any information concerning the truthfulness of the applicant's answers to the eligibility requirements of subsection (c) that is within the knowledge of the sheriff.*
- (h) Upon receipt of the fingerprints from the department, the Tennessee bureau of investigation shall:*
 - (1) Within thirty (30) days from receipt of the fingerprints, conduct computer searches to determine the applicant's eligibility for a permit under subsection (c) as are available to the bureau based solely upon the applicant's name, date of birth and social security number and send the results of the searches to the department;*
 - (2) Conduct a criminal history record check based upon one (1) set of the fingerprints received and send the results to the department; and*
 - (3) Send one (1) set of the fingerprints received from the department to the federal bureau of investigation, request a federal criminal history record check based upon the fingerprints, as long as the service is available, and send the results of the check to the department.*
- (i) The department shall deny a permit application if it determines from information contained in the criminal history record checks conducted by the Tennessee and federal bureaus of investigation pursuant to subsection (h), from information received from the clerks of court regarding individuals adjudicated as a mental defective or judicially committed to a mental institution pursuant to title 33, or from other information that comes to the attention of the department, that the applicant does not meet the eligibility requirements of this section. The department shall not be required to confirm the applicant's eligibility for a permit beyond the information received from the Tennessee and federal bureaus of investigation, the clerks of court and the sheriffs, if any.*

(j) The department shall not deny a permit application if:

(1) The existence of any arrest or other records concerning the applicant for any indictment, charge or warrant have been judicially or administratively expunged;

(2) An applicant's conviction has been set aside by a court of competent jurisdiction;

(3) The applicant, who was rendered infamous or deprived of the rights of citizenship by judgment of any state or federal court, has had the applicant's full rights of citizenship duly restored pursuant to procedures set forth within title 40, chapter 29, or other federal or state law; provided, however, that this subdivision (j)(3) shall not apply to any person who has been convicted of a felony crime of violence, an attempt to commit a felony crime of violence, a felony drug offense, or a felony offense involving use of a deadly weapon; or

(4) The applicant, who was adjudicated as a mental defective or judicially committed to a mental institution, as defined in § 39-17-1301, has had the applicant's firearm disability removed by an order of the court pursuant to title 16, and either a copy of that order has been provided to the department by the TBI or a certified copy of that court order has been provided to the department by the applicant.

(k) If the department denies an application, the department shall notify the applicant in writing within ten (10) days of the denial. The written notice shall state the specific factual basis for the denial. It shall include a copy of any reports, records or inquiries reviewed or relied upon by the department.

(l) The department shall issue a permit to an applicant not prohibited from obtaining a permit under this section no later than ninety (90) days after the date the department receives the application. A permit issued prior to the department's receipt of the Tennessee and federal bureaus of investigation's criminal history record checks based upon the applicant's fingerprints shall be subject to immediate revocation if either record check reveals that the applicant is not eligible for a permit pursuant to this section.

(m) A permit holder shall not be required to complete a handgun safety course to maintain or renew an enhanced handgun carry permit. No permit holder shall be required to complete any additional handgun safety course after obtaining an enhanced handgun carry permit. No person shall be required to complete any additional handgun safety course if the person applies for a renewal of an enhanced handgun carry permit within eight (8) years from the date of expiration.

(n)(1) Except as provided in subdivision (n)(2) and subsection (x), a permit issued pursuant to this section shall be good for eight (8) years and shall entitle the permit holder to carry any handgun or handguns that the permit holder legally owns or possesses. The permit holder shall have the permit in the holder's immediate possession at all times when carrying a handgun and shall display the permit on demand of a law enforcement officer.

(2) A Tennessee permit issued pursuant to this section to a person who is in or who enters into the United States armed forces shall continue in effect for so long as the person's service continues and the person is stationed outside this state, notwithstanding the fact that the person may be temporarily in this state on furlough, leave, or delay en route, and for a period not to exceed sixty (60) days following the date on which the person is honorably discharged or separated from service or returns to this state on reassignment to a duty station in this state, unless the permit is sooner suspended, cancelled or

revoked for cause as provided by law. The permit is valid only when in the immediate possession of the permit holder and the permit holder has in the holder's immediate possession the holder's discharge or separation papers, if the permit holder has been discharged or separated from the service.

(3) After the initial issuance of an enhanced handgun carry permit, the department shall conduct a name-based criminal history record check every four (4) years or upon receipt of an application.

(o) **[Contingent effective date for (o)(2), see Compiler's Notes.]** The permit shall be issued on a wallet-sized laminated card of the same approximate size as is used by this state for driver licenses and shall contain only the following information concerning the permit holder:

- (1) The permit holder's name, address and date of birth;
- (2) A description of the permit holder by sex, height, weight and eye color;
- (3) A color photograph of the permit holder; and
- (4) The permit number, issuance date, and expiration date.

(o)(1) The permit shall be issued on a wallet-sized laminated card of the same approximate size as is used by this state for driver licenses and shall contain only the following information concerning the permit holder:

- (A) The permit holder's name, address and date of birth;
- (B) A description of the permit holder by sex, height, weight and eye color;
- (C) A color photograph of the permit holder; and
- (D) The permit number, issuance date, and expiration date.

(2) **[Contingent effective date, see Compiler's Notes.]** The following language must be printed on the back of the card: This permit is valid beyond the expiration date if the permit holder can provide documentation of the holder's active military status and duty station outside Tennessee.

(p)(1) Except as provided in subsection (x), the department shall charge an application and processing fee of one hundred dollars (\$100). The fee shall cover all aspects of processing the application and issuing a permit. In addition to any other portion of the permit application fee that goes to the Tennessee bureau of investigation, fifteen dollars (\$15.00) of the fee shall go to the bureau for the sole purpose of updating and maintaining its fingerprint criminal history data base. On an annual basis, the comptroller of the treasury shall audit the bureau to ensure that the extra fifteen dollars (\$15.00) received from each handgun permit application fee is being used exclusively for the purpose set forth in this subsection (p). By February 1 of each year the bureau shall provide documentation to the judiciary committee of the senate and the judiciary committee of the house of representatives that the extra fifteen dollars (\$15.00) is being used exclusively for the intended purposes. The documentation shall state in detail how the money earmarked for fingerprint data base updating and maintenance was spent, the number and job descriptions of any employees hired and the type and purpose of any equipment purchased. Any person, who has been honorably discharged from any branch of the United States armed forces or who is on active duty in any branch of the armed forces or who is currently serving in the national guard or armed forces reserve, and who makes initial application for an enhanced handgun carry permit shall be required to pay only that portion of the initial application fee that is necessary to conduct the required criminal history record checks.

(2) The provisions of subdivision (p)(1) increasing each permit application fee by fifteen dollars (\$15.00) for the purpose of fingerprint data base

updating and maintenance shall not take effect if the general appropriation act provides a specific appropriation in the amount of two hundred fifty thousand dollars (\$250,000), to defray the expenses contemplated in subdivision (p)(1). If the appropriation is not included in the general appropriations act, the fifteen dollar (\$15.00) permit fee increase imposed by subdivision (p)(1) shall take effect on July 1, 1997, the public welfare requiring it.

(3) Beginning July 1, 2008, fifteen dollars (\$15.00) of the fee established in subdivision (p)(1) shall be submitted to the sheriff of the county where the applicant resides for the purpose of verifying the truthfulness of the applicant's answers as provided in subdivision (g)(1).

(q)(1) Prior to the expiration of a permit, a permit holder may apply to the department for the renewal of the permit by submitting, under oath, a renewal application with a renewal fee of fifty dollars (\$50.00). The renewal application shall be on a standard form developed by the department of safety and shall require the applicant to disclose, under oath, the information concerning the applicant as set forth in subsection (c), and shall require the applicant to certify that the applicant still satisfies all the eligibility requirements of this section for the issuance of a permit. In the event the permit expires prior to the department's approval or issuance of notice of denial regarding the renewal application, the permit holder shall be entitled to continue to use the expired permit; provided, however, that the permit holder shall also be required to prove by displaying a receipt for the renewal application fee that the renewal application was delivered to the department prior to the expiration date of the permit. The department is authorized to contract with a local government agency for the provision of any service related to the renewal of enhanced handgun carry permits, subject to applicable contracting statutes and regulations. An agency contracting with the department is authorized to charge an additional fee of four dollars (\$4.00) for each renewal application, which shall be retained by the agency for administrative costs.

(2)(A) A person may renew that person's enhanced handgun carry permit beginning six (6) months prior to the expiration date on the face of the card, and, if the permit is not expired, the person shall only be required to comply with the renewal provisions of subdivision (q)(1).

(B) Any person who applies for renewal of that person's enhanced handgun carry permit after the expiration date on the face of the card shall only be required to comply with the renewal provisions of subdivision (q)(1) unless the permit has been expired for more than eight (8) years.

(C) Any person who applies for renewal of an enhanced handgun carry permit when the permit has been expired for more than eight (8) years, shall, for all purposes, be considered a new applicant.

(3) If a person whose enhanced handgun carry permit remained valid pursuant to subdivision (n)(2) because the person was in the United States armed forces applies for a renewal of the permit within eight (8) years of the expiration of the sixty (60) day period following discharge, separation, or return to this state on reassignment to a duty station in this state as provided in subdivision (n)(2), the person shall only be required to comply with the renewal provisions of subdivision (q)(1). If the renewal application is filed eight (8) years or more from expiration of the sixty (60) day period following the date of honorable discharge, separation, or return to this state on reassignment to a duty station in this state, the person shall, for all purposes,

be considered a new applicant.

(r)(1) A facially valid handgun permit, firearms permit, weapons permit or license issued by another state shall be valid in this state according to its terms and shall be treated as if it is a handgun permit issued by this state; provided, however, this subsection (r) shall not be construed to authorize the holder of any out-of-state permit or license to carry, in this state, any firearm or weapon other than a handgun.

(2) For a person to lawfully carry a handgun in this state based upon a permit or license issued in another state, the person must be in possession of the permit or license at all times the person carries a handgun in this state.

(3)(A) The commissioner of safety shall enter into written reciprocity agreements with other states that require the execution of the agreements. The commissioner of safety shall prepare and publicly publish a current list of states honoring permits issued by the state of Tennessee and shall make the list available to anyone upon request. The commissioner of safety shall also prepare and publicly publish a current list of states who, after inquiry by the commissioner, refuse to enter into a reciprocity agreement with this state or honor enhanced handgun carry permits issued by this state. To the extent that any state may impose conditions in the reciprocity agreements, the commissioner of safety shall publish those conditions as part of the list. If another state imposes conditions on Tennessee permit holders in a reciprocity agreement, the conditions shall also become a part of the agreement and apply to the other state's permit holders when they carry a handgun in this state.

(B) If a person with a handgun permit from another state decides to become a resident of Tennessee, the person must obtain a Tennessee handgun permit within six (6) months of establishing residency in Tennessee. The permit may be issued based on the person having a permit from another state provided the other state has substantially similar permit eligibility requirements as this state. However, if during the six-month period the person applies for a handgun permit in this state and the application is denied, the person shall not be allowed to carry a handgun in this state based upon the other state's permit.

(C)(i) If a person who is a resident of and handgun permit holder in another state is employed in this state on a regular basis and desires to carry a handgun in this state, the person shall have six (6) months from the last day of the sixth month of regular employment in this state to obtain a Tennessee enhanced handgun carry permit. The permit may be issued based on the person having a permit from another state provided the other state has substantially similar permit eligibility requirements as this state. However, if during the six-month period the person applies for a handgun permit in this state and the application is denied, the person shall not be allowed to carry a handgun in this state based upon the other state's permit.

(ii) This subdivision (r)(3)(C) shall not apply if the state of residence of the person employed in Tennessee has entered into a handgun permit reciprocity agreement with this state pursuant to this subsection (r).

(iii) As used in this subdivision (r)(3)(C), "employed in this state on a regular basis" means a person has been gainfully employed in this state for at least thirty (30) hours a week for six (6) consecutive months not counting any absence from employment caused by the employee's use of

sick leave, annual leave, administrative leave or compensatory time.

(s)(1) The department shall make available, on request and payment of a reasonable fee to cover the costs of copying, a statistical report that includes the number of permits issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender and zip code of the applicant or permit holder and the reason for any permit revocation or suspension. The report shall also include the cost of the program, the revenues derived from fees, the number of violations of the enhanced handgun carry permit law, and the average time for issuance of an enhanced handgun carry permit. By January 1 of each year, a copy of the statistical reports for the preceding calendar year shall be provided to each member of the general assembly.

(2)(A) The department shall maintain statistics related to responses by law enforcement agencies to incidents in which a person who has a permit to carry a handgun under this section is arrested and booked for any offense.

(B) The department by rule promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, shall adopt procedures for state and local law enforcement officials to report the information required by subdivision (s)(2)(A) to the department.

(t) Any law enforcement officer of this state or of any county or municipality may, within the realm of the officer's lawful jurisdiction and when the officer is acting in the lawful discharge of the officer's official duties, disarm a permit holder at any time when the officer reasonably believes it is necessary for the protection of the permit holder, officer or other individual or individuals. The officer shall return the handgun to the permit holder before discharging the permit holder from the scene when the officer has determined that the permit holder is not a threat to the officer, to the permit holder, or other individual or individuals; provided, that the permit holder has not violated any provision of this section and provided the permit holder has not committed any other violation that results in the arrest of the permit holder.

(u) Substantial compliance with the requirements of this section shall provide the department and any political subdivision thereof with immunity from civil liability alleging liability for issuance of the permit.

(v) Any permit issued pursuant to this section shall be deemed a "license" within the meaning of title 36, chapter 5, part 7, dealing with the enforcement of child support obligations through license denial and revocation.

(w)(1) Notwithstanding any other law or rule to the contrary, neither the department nor an instructor or employee of a department approved handgun safety course is authorized to require any applicant for an enhanced handgun carry permit to furnish or reveal identifying information concerning any handgun the applicant owns, possesses or uses during the safety course in order to apply for or be issued the permit.

(2) For purposes of subdivision (w)(1), "identifying information concerning any handgun" includes, but is not limited to, the serial number, model number, make of gun or manufacturer, type of gun, such as revolver or semi-automatic, caliber or whether the applicant owns the handgun used for the safety course.

(x)(1) Any resident of Tennessee who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, who has reached twenty-one (21) years of age, may apply to the department of safety for a lifetime enhanced handgun carry permit. If the applicant is not prohibited from

purchasing or possessing a firearm in this state pursuant to § 39-17-1316 or § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant. The lifetime enhanced handgun carry permit shall entitle the permit holder to carry any handgun or handguns the permit holder legally owns or possesses and shall entitle the permit holder to any privilege granted to enhanced handgun carry permit holders. The requirements imposed on enhanced handgun carry permit holders by this section shall also apply to lifetime enhanced handgun carry permit holders.

(2) The department shall charge an application and processing fee for a lifetime enhanced handgun carry permit equal to the application and processing fee charged under subsection (p) plus a lifetime enhanced handgun carry permit fee of two hundred dollars (\$200); provided, however, that a permit holder who is applying for the renewal of an enhanced handgun carry permit under subsection (q) may instead obtain a lifetime enhanced handgun carry permit by submitting to the department a fee of two hundred dollars (\$200). The application process shall otherwise be the same as the application process for an enhanced handgun carry permit as set out in this section. Any funds from the fees paid pursuant to this subdivision (x)(2) that are not used for processing applications and issuing permits shall be retained by the department to fund any necessary system modifications required to create a lifetime enhanced handgun carry permit and monitor the eligibility of lifetime enhanced handgun carry permit holders as required by subdivision (x)(3).

(3) A lifetime enhanced handgun carry permit shall not expire and shall continue to be valid for the life of the permit holder unless the permit holder no longer meets the requirements of this section. A lifetime enhanced handgun carry permit shall not be subject to renewal; provided, however, that every five (5) years after issuance of the lifetime enhanced handgun carry permit, the department shall conduct a criminal history record check in the same manner as required for enhanced handgun carry permit renewals. Upon discovery that a lifetime enhanced handgun carry permit holder no longer satisfies the requirements of this section, the department shall suspend or revoke the permit pursuant to § 39-17-1352.

(4)(A) If the lifetime enhanced handgun carry permit holder's permit is suspended or revoked, the permit holder shall deliver, in person or by mail, the permit to the department within thirty (30) days of the suspension or revocation.

(B) If the department does not receive the lifetime enhanced handgun carry permit holder's suspended or revoked permit within thirty (30) days of the suspension or revocation, the department shall send notice to the permit holder that:

(i) The permit holder has thirty (30) days from the date of the notice to deliver the permit, in person or by mail, to the department; and

(ii) If the permit holder fails to deliver the suspended or revoked permit to the department within thirty (30) days of the date of the notice, the department will suspend the permit holder's driver license.

(C) If the department does not receive the lifetime enhanced handgun carry permit holder's suspended or revoked permit within thirty (30) days of the date of the notice provided by the department, the department shall suspend the permit holder's driver license in the same manner as provided

610

in § 55-50-502.

(5) The total fee required by subdivision (x)(2) shall be waived if the applicant:

(A) Is a former federal, state, or local law enforcement officer, as defined in § 39-11-106;

(B) Served for at least ten (10) years prior to leaving the law enforcement agency and was POST-certified, or had equivalent training, on the date the officer left the law enforcement agency;

(C) Was in good standing at the time of leaving the law enforcement agency, as certified by the chief law enforcement officer or designee of the organization that employed the applicant; and

(D) Is a resident of this state on the date of the application.

(y) An applicant shall not be required to comply with the firing range requirements of this section if the applicant:

(1) Is an active duty service member or honorably discharged or retired veteran of the United States armed forces;

(2) Has a military occupational specialty, special qualification identifier, skill identifier, specialty code, or rating that identifies a service qualification in military police, special operations, or special forces; and

(3) Presents to the department a certified copy of the applicant's certificate of release or discharge from active duty, department of defense form 214 (DD 214), or other official documentation that provides proof of the service criteria required under this subsection (y).

39-17-1352. Suspension or revocation of license. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) The department shall suspend or revoke a handgun permit upon a showing by its records or other sufficient evidence that the permit holder:

(1) Is prohibited from purchasing a handgun under applicable state or federal law;

(2) Has not accurately disclosed any material information required by § 39-17-1351 or § 39-17-1366;

(3) Poses a material likelihood of risk of harm to the public;

(4) Has been arrested for a felony crime of violence, an attempt to commit a felony crime of violence, a felony involving the use of a deadly weapon, or a felony drug offense;

(5) Has been convicted of a felony;

(6) Has violated any other provision of §§ 39-17-1351 – 39-17-1360 or § 39-17-1366;

(7) Has at any time committed an act or omission or engaged in a pattern of conduct that would render the permit holder ineligible to apply for or obtain a permit under the eligibility requirements of § 39-17-1351 or § 39-17-1366;

(8) Has been convicted of domestic assault as defined in § 39-13-111, or any other misdemeanor crime of domestic violence and is still subject to the disabilities of such a conviction;

(9) Is subject to a current order of protection that fully complies with 18 U.S.C. § 922(g)(8); or

(10) Has been judicially committed to a mental institution pursuant to title 33, chapter 6 or title 33, chapter 7 or has been adjudicated as a mental

defective.

(b)(1) It is an offense for a permit holder to knowingly fail or refuse to surrender to the department a suspended or revoked handgun permit within ten (10) days from the date appearing on the notice of suspension or revocation sent to such permit holder by the department.

(2) A violation of this subsection (b) is a Class A misdemeanor.

(c)(1) Upon the suspension or revocation of a permit, the department shall send notice of the suspension or revocation to the permit holder and the appropriate local law enforcement officers. The notice shall state the following:

(A) That the permit has been immediately suspended or revoked;

(B) That the permit holder must surrender the permit to the department within ten (10) days of the date appearing on the notice;

(C) That it is a Class A misdemeanor punishable by up to one (1) year in jail for the permit holder to knowingly fail or refuse to surrender the permit to the department within the ten-day period;

(D) That if the permit holder does not surrender the suspended or revoked permit within the ten-day period, a law enforcement officer will be directed to take possession of the permit; and

(E) That the permit holder has thirty (30) days from the date appearing on the notice of suspension or revocation to request a hearing on the suspension or revocation.

(2) If the permit holder fails to surrender the suspended or revoked permit as required by this section, the department shall issue authorization to the appropriate local law enforcement officials to take possession of the suspended or revoked permit and send it to the department.

(d) The applicant shall have a right to petition the general sessions court of the applicant's county of residence for judicial review of departmental denial, suspension or revocation of a permit. At the review by the general sessions court, the department shall be represented by the district attorney general.

(e)(1) If a permit holder is arrested and charged with burglary, a felony drug offense or a felony offense involving violence or the use of a firearm, then the court first having jurisdiction over the permit holder with respect to the felony charge shall inquire as to whether the person has been issued a Tennessee handgun carry permit, order the permit holder to surrender the permit and send the permit to the department with a copy of the court's order that required the surrender of the permit. The department shall suspend the permit pending a final disposition on the felony charge against the permit holder.

(2) If a permit holder is arrested and charged with any felony offense other than an offense subject to subdivision (e)(1), then the court first having jurisdiction over the permit holder with respect to the felony charge shall inquire as to whether the person has been issued a Tennessee handgun carry permit, order the permit holder to surrender the permit and send the permit to the department with a copy of the court's order that required the surrender of the permit, unless the permit holder petitions the court for a hearing on the surrender. If the permit holder does petition the court, the court shall determine whether the permit holder will present a material risk of physical harm to the public if released and allowed to retain the permit. If the court determines that the permit holder will present a material risk of physical harm to the public, it shall condition any release of the permit holder, whether

on bond or otherwise, upon the permit holder's surrender of the permit to the court. Upon surrender of the permit, the court shall send the permit to the department with a copy of the court's order that required the surrender of the permit and the department shall suspend the permit pending a final disposition of the felony charges against the permit holder.

(3) If the permit holder is acquitted on the charge or charges, the permit shall be restored to the holder and the temporary prohibition against the carrying of a handgun shall be lifted.

(4) If the permit holder is convicted of the charge or charges, the permit shall be revoked by the court and the revocation shall be noted in the judgment and minutes of the court. The court shall send the surrendered permit to the department.

(5) If the permit holder is placed on pretrial diversion or judicial diversion, the permit holder's privilege to lawfully carry a handgun shall be suspended for the length of time the permit holder is subject to the jurisdiction of the court. The court shall send the surrendered permit to the department.

(f)(1) If a permit holder is convicted of a Class A misdemeanor offense, the permit holder shall surrender the permit to the court having jurisdiction of the case for transmission to the department.

(2) The permit holder shall not be permitted to lawfully carry a handgun or exercise the privileges conferred by the permit for the term of the sentence imposed by the court for the offense or offenses for which the permit holder was convicted.

(g) In order to reinstate a permit suspended pursuant to subsection (e) or (f), the permit holder shall pay a reinstatement fee of twenty-five dollars (\$25.00) with one half ($\frac{1}{2}$) of the fee payable to the department of safety and one half ($\frac{1}{2}$) payable to the court that suspended the permit.

(1) Prior to the reinstatement of the permit, the permit holder shall have paid in full all fines, court costs and restitution, if any, required by the sentencing court.

(2) Failure to complete any terms of probation imposed by the court shall be a bar to reinstatement of the permit.

(3) Prior to reissuance of the permit, the department shall verify that the permit holder has complied with all reinstatement requirements of this subsection (g).

39-17-1353. Review of revocation or suspension. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) Any person who has received a notice of suspension or revocation may make a written request for a review of the department's determination by the department at a hearing. The request shall be made on a form available from the department. If the person's permit has not been previously surrendered, it must be surrendered at the time the request for a hearing is made. A request for a hearing does not stay the permit suspension or revocation.

(b) Within thirty (30) days from the date the request for a hearing is filed, the department shall establish a hearing date and set the case on a docket. Nothing in this section shall be construed as requiring the hearing to be conducted within such thirty-day period. The hearing shall be held at a place designated by the department. The department shall provide written notice of the time and place of the hearing to the party requesting the hearing at least ten (10) days prior to the scheduled hearing, unless the party agrees to waive this

requirement.

(c) The presiding hearing officer shall be the commissioner or an authorized representative designated by the commissioner. The presiding hearing officer shall have the authority to:

- (1) Administer oaths and affirmations;*
- (2) Examine witnesses and take testimony;*
- (3) Receive relevant evidence;*
- (4) Issue subpoenas, take depositions, or cause depositions to interrogatories to be taken;*
- (5) Regulate the course and conduct of the hearing; and*
- (6) Make a final ruling on the issue.*

(d) The sole issue at the hearing shall be whether by a preponderance of the evidence the person has violated any provision of §§ 39-17-1351 – 39-17-1360 or § 39-17-1366. If the presiding hearing officer finds the affirmative of this issue, the suspension or revocation order shall be sustained. If the presiding hearing officer finds the negative of this issue, the suspension or revocation order shall be rescinded.

(e) The hearing shall be recorded. The decision of the presiding hearing officer shall be rendered in writing, and a copy will be provided to the person who requested the hearing.

(f) If the person who requested the hearing fails to appear without just cause, the right to a hearing shall be waived, and the department's earlier determination shall be final.

(g) Witnesses under subpoena shall be entitled to the same fees as are now or may hereafter be provided for witnesses in civil actions in the circuit court and, unless otherwise provided by law or by action of the agency, the party requesting the subpoenas shall bear the cost of paying fees to the witnesses subpoenaed.

39-17-1358. Retention of records — Violations. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a) The sheriff or chief law enforcement officer may retain applications and files related to the approval or denial of any application submitted from October 1, 1994, to October 1, 1996, if the applications and files are relevant to any pending litigation. After the pending litigation is concluded, the applications and files shall be destroyed.

(b) Except as otherwise specifically provided in §§ 39-17-1351 and 39-17-1352, a violation of §§ 39-17-1351 – 39-17-1360 or § 39-17-1366 is a Class B misdemeanor punishable only by a fine not to exceed five hundred dollars (\$500).

(c) Any party aggrieved under the terms of §§ 39-17-1351 – 39-17-1360 or § 39-17-1366 by the denial, suspension or revocation of a permit, or otherwise, may file a writ of mandamus, as provided by law. The action shall also allow the recovery of any actual damages sustained by the party. The aggrieved party, if prevailing in action, shall also be entitled to recover those costs and attorney's fees reasonably incurred or relating to the action.

(d) Nothing contained in this section shall be construed to alter, reduce or eliminate any personal civil or criminal liability that an applicant may have for the intentional or negligent use of a firearm.

39-17-1359. Prohibition at certain meetings — Posted notice — Handgun carry permit holder. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

(a)(1) Except as provided in § 39-17-1313, an individual, corporation, business entity, or local, state, or federal government entity or agent thereof is authorized to:

(A) Prohibit the possession of weapons by any person who is at a meeting conducted by, or on property owned, operated, or managed or under the control of the individual, corporation, business entity, or government entity; or

(B) Restrict the possession of weapons by any person who is at a meeting conducted by, or on property owned, operated, or managed or under the control of the individual, corporation, business entity, or government entity by allowing a handgun to be carried in a concealed manner only by persons authorized to carry a handgun pursuant to § 39-17-1351 or § 39-17-1366.

(2) The prohibition in subdivision (a)(1) shall apply to any person who is authorized to carry a firearm by authority of § 39-17-1351 or § 39-17-1366.

(b)(1) Notice of the prohibition or restriction permitted by subsection (a) shall be accomplished by displaying the notice described in subdivision (b)(3) in prominent locations, including all entrances primarily used by persons entering the property, building, or portion of the property or building where weapon possession is prohibited or restricted. The notice shall be plainly visible to the average person entering the building, property, or portion of the building or property, posted.

(2) The notice required by this section shall be in English, but a duplicate notice may also be posted in any language used by patrons, customers, or persons who frequent the place where weapon possession is prohibited or restricted.

(3)(A) A sign shall be used as the method of posting.

(B)(i) A sign prohibiting possession in accordance with subdivision (a)(1)(A) shall include the phrase “NO FIREARMS ALLOWED”, and the phrase shall measure at least one inch (1”) high and eight inches (8”) wide. The sign shall also include the phrase “As authorized by T.C.A. § 39-17-1359”.

(ii) The sign shall include a pictorial representation of the phrase “NO FIREARMS ALLOWED” that shall include a circle with a diagonal line through the circle and an image of a firearm inside the circle under the diagonal line. The entire pictorial representation shall be at least four inches (4”) high and four inches (4”) wide. The diagonal line shall be at a forty-five degree (45°) angle from the upper left to the lower right side of the circle.

(C)(i) A sign restricting possession in accordance with subdivision (a)(1)(B) shall include the phrase “CONCEALED FIREARMS BY PERMIT ONLY”, and the phrase shall measure at least one inch (1”) high and eight inches (8”) wide. The sign shall also include the phrase “As authorized by T.C.A. §§ 39-17-1351, 39-17-1359, and 39-17-1366”.

(ii) The sign shall include a pictorial representation of the phrase “CONCEALED FIREARMS BY PERMIT ONLY” that shall include a circle with a diagonal line through the circle and an image of a firearm inside the circle. The entire pictorial representation shall be at least four

inches (4") high and four inches (4") wide. The diagonal line shall be at a forty five degree (45°) angle from the upper left to the lower right side of the circle.

(4) An individual, corporation, business entity, or government entity that, as of January 1, 2018, used signs to provide notice of the prohibition permitted by subsection (a) shall have until January 1, 2019, to replace existing signs with signs that meet the requirements of subdivision (b)(3).

(c)(1) It is an offense to possess a weapon in a building or on property that is properly posted in accordance with this section.

(2) Possession of a weapon on posted property in violation of this section is a Class B misdemeanor punishable by fine only of five hundred dollars (\$500).

(d) Nothing in this section shall be construed to alter, reduce or eliminate any civil or criminal liability that a property owner or manager may have for injuries arising on their property.

(e) This section shall not apply to title 70 regarding wildlife laws, rules and regulations.

(f) Except as provided in subsection (g), this section shall not apply to the grounds of any public park, natural area, historic park, nature trail, campground, forest, greenway, waterway or other similar public place that is owned or operated by the state, a county, a municipality or instrumentality thereof. The carrying of firearms in those areas shall be governed by § 39-17-1311.

(g)(1) Except as provided in subdivision (g)(2), nothing in this section shall authorize an entity of local government or a permittee thereof to enact or enforce a prohibition or restriction on the possession of a handgun by an enhanced handgun carry permit holder or concealed handgun carry permit holder on property owned or administered by the entity unless the following are provided at each public entrance to the property:

(A) Metal detection devices;

(B) At least one (1) law enforcement or private security officer who has been adequately trained to conduct inspections of persons entering the property by use of metal detection devices; and

(C) That each person who enters the property through the public entrance when the property is open to the public and any bag, package, and other container carried by the person is inspected by a law enforcement or private security officer described in subdivision (g)(1)(B) or an authorized representative with the authority to deny entry to the property.

(2) Subdivision (g)(1) does not apply to:

(A) Facilities that are licensed under title 33, 37, or 68;

(B) Property on which firearms are prohibited by § 39-17-1309 or § 39-17-1311(b)(1)(H)(ii);

(C) Property on which firearms are prohibited by § 39-17-1306 at all times regardless of whether judicial proceedings are in progress;

(D) Buildings that contain a law enforcement agency, as defined in § 39-13-519;

(E) Libraries; or

(F) Facilities that are licensed by the department of human services, under title 71, chapter 3, part 5, and administer a Head Start program.

616

39-17-1360. Rules and regulations. [Effective on January 1, 2020. See the version effective until January 1, 2020.]

The department of safety is authorized to promulgate rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to implement §§ 39-17-1351 – 39-17-1360 or § 39-17-1366.

39-17-1366. Concealed handgun carry permit. [Effective on January 1, 2020.]

(a) Any resident of this state who is a United States citizen or lawful permanent resident, as defined by § 55-50-102, may apply to the department for a concealed handgun carry permit. If the applicant is not prohibited from possessing a firearm in this state pursuant to § 39-17-1307(b), 18 U.S.C. § 922(g), or any other state or federal law, and the applicant otherwise meets all of the requirements of this section, the department shall issue a permit to the applicant.

(b) To be eligible to receive a concealed handgun carry permit, the person must:

(1) Apply in person to the department on a concealed handgun carry permit application developed by the department;

(2) Provide proof of the person's identity and state residency by presenting:

(A) A driver license or photo identification issued by this state; or

(B) Other proof satisfactory to the department showing the person's identity and residency;

(3) Meet the qualifications for the issuance of an enhanced handgun carry permit under § 39-17-1351(b) and (c) and provide the department with two (2) sets of fingerprints in the manner required in § 39-17-1351(d);

(4)(A) Provide proof the person has demonstrated competence with a handgun; provided, that any safety or training course or class must have been completed no more than one (1) year prior to the application for the concealed handgun carry permit. The person may demonstrate such competence by one (1) of the following, but a person is not required to submit to any additional demonstration of competence:

(i) Completing any hunter education or hunter safety course approved by the Tennessee wildlife resources agency or a similar agency of another state;

(ii) Completing any firearms safety or training course administered by an organization specializing in firearms training and safety;

(iii) Completing any firearms safety or training course or class available to the general public offered by a law enforcement agency, junior college, college, private or public institution or organization, or firearms training school utilizing instructors certified by an organization specializing in firearms training and safety or the department;

(iv) Completing any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

(v) Presenting evidence of equivalent experience with a firearm through current military service or proof of an honorable discharge from any branch of the armed services;

(vi) Obtaining or previously having held a license to carry a firearm in

this state, unless such license has been revoked for cause;

(vii) Completing any firearms training or safety course or class, including an electronic, video, or online course, that:

(a) Is conducted by a firearms instructor who is certified by the state or an organization specializing in firearms training and safety; and

(b) Meets the qualifications established by the department pursuant to subsection (l);

(viii) Completing any governmental law enforcement agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

(ix) Completing any other firearms training that the department deems adequate; and

(B) Proof of competence under this subdivision (b)(4) is evidenced by a photocopy of a certificate of completion of any of the courses or classes described in subdivision (b)(4)(A); an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or required experience;

(5) Pay an application and processing fee of sixty-five dollars (\$65.00) to the department; and

(6) Provide a signed printed copy of the form provided by the department, pursuant to subdivision (k)(4), stating that the applicant has read and understands the current state law on carrying handguns.

(c)(1) Upon receipt of a concealed handgun carry permit application, the department shall:

(A) Forward two (2) full sets of fingerprints of the applicant to the Tennessee bureau of investigation; and

(B) Send a copy of the application to the sheriff of the county in which the applicant resides.

(2) Within thirty (30) days of receiving an application, the sheriff shall provide the department with any information concerning the truthfulness of the applicant's answers to the eligibility requirements of § 39-17-1351(c) that is within the knowledge of the sheriff.

(3) Upon receipt of the fingerprints from the department, the Tennessee bureau of investigation shall conduct searches and record checks in the same manner required in § 39-17-1351(h) and send the results to the department.

(d) If an applicant meets all the requirements of this section, the department shall issue the applicant a concealed handgun carry permit that entitles the permit holder to carry any handgun that the permit holder legally owns or possesses in a concealed manner. The concealed handgun permit is valid for eight (8) years from the date of issuance.

(e) A person issued a concealed handgun carry permit under this section shall carry the permit at all times when carrying a handgun pursuant to this section and shall display the permit on demand of a law enforcement officer.

(f) The permit shall be issued on a wallet-sized laminated card of the same approximate size as is used by this state for driver licenses and contain only the following information concerning the permit holder:

(1) The permit holder's name, address, and date of birth;

(2) A description of the permit holder by sex, height, weight, and eye color;

(3) A color photograph of the permit holder; and

(4) The permit number, issuance date, and expiration date.

(g) The issuance of a concealed handgun carry permit under this section does not relieve a person from complying with all requirements of § 39-17-1351 in order to be issued an enhanced handgun carry permit pursuant to that section.

(h) A concealed handgun carry permit issued under this section shall authorize the permit holder to carry or possess a handgun as authorized by § 39-17-1313.

(i) A concealed handgun carry permit issued under this section is subject to the same restrictions and requirements found in §§ 39-17-1352 – 39-17-1359.

(j)(1) Prior to the expiration of a concealed handgun carry permit, a permit holder may apply to the department for the renewal of the permit by submitting, under oath, a renewal application. The renewal application must be on a standard form developed by the department; must require the applicant to disclose, under oath, the information concerning the applicant as set forth in subsection (b); and must require the applicant to certify that the applicant still satisfies all the eligibility requirements of this section for the issuance of a concealed handgun carry permit. In the event the permit holder's current concealed handgun carry permit expires prior to the department's approval or issuance of notice of denial regarding a pending renewal application, the permit holder is entitled to continue to use the expired permit until the department issues an approval or denial of the renewal application.

(2) A person may renew that person's concealed handgun carry permit beginning six (6) months prior to the expiration date on the face of the permit.

(k) The department shall maintain the following material on the department's website:

(1) Current state law on carrying handguns;

(2) An explanation of the different handgun carry permits available;

(3) A list of various providers that conduct department-approved training courses or classes, pursuant to subdivision (b)(4)(A); and

(4) A printable form to be signed by the applicant pursuant to subdivision (b)(6).

(l) The department shall determine that a firearms training or safety course or class meets the requirement of subdivision (b)(4)(A)(vii) if the course or class curriculum does the following:

(1) Conveys the basic knowledge and skills necessary for safe handling and storage of firearms and ammunition and includes firearm safety rules, handgun uses, features, basic skills and techniques, safe cleaning, transportation, and storage methods;

(2) Conveys the current state law on carrying handguns;

(3) Is not less than ninety (90) minutes in length;

(4) Includes a test or quiz that confirms competency of the course or class curriculum; and

(5) Provides a printable certificate of course or class completion.

(m) Any law enforcement officer of this state or of any county or municipality may, within the officer's lawful jurisdiction and when the officer is acting in the lawful discharge of the officer's official duties, disarm a permit holder at any time when the officer reasonably believes it is necessary for the protection of the permit holder, officer, or another individual. The officer shall return the handgun to the permit holder before discharging the permit holder from the scene when the officer has determined that the permit holder is not a threat to the officer, the permit holder, or another individual; provided, that the permit holder has not violated this section or committed any other violation that

results in the arrest of the permit holder.

(n) As used in this section, “department” means the department of safety.

39-17-1501. Short title.

This part shall be known and may be cited as the “Prevention of Youth Access to Tobacco, Smoking Hemp, and Vapor Products Act.”

39-17-1502. Purpose and intent.

(a) The purpose of this part is to reduce the access of persons under eighteen (18) years of age to tobacco products by strengthening existing prohibitions against the sale and distribution of tobacco products and prohibiting the purchase or receipt of tobacco products by such persons, limiting the sale of tobacco products through vending machines, restricting the distribution of tobacco product samples, prohibiting the sale of cigarettes or smokeless tobacco products other than in unopened packages, and random, unannounced inspections of locations where tobacco products are sold or distributed, providing for the report required to be submitted to the United States department of health and human services pursuant to Section 1926 of the Public Health Service Act (42 U.S.C. § 300x-26), and ensuring uniform regulations with respect to tobacco products within this state.

(b) The purpose of this part is also to prohibit the sale or distribution of vapor products to, or purchase of vapor products on behalf of, persons under eighteen (18) years of age.

(c) The purpose of this part is also to prohibit the sale or distribution of smoking hemp products to, or purchase of smoking hemp products on behalf of, persons under eighteen (18) years of age.

(d) It is the intent of the general assembly that this part be equitably enforced so as to ensure the eligibility for and receipt of any federal funds or grants that this state now receives or may receive relating to this part.

39-17-1503. Part definitions.

As used in this part, unless the context otherwise requires:

(1) “Beedies” or “bidis” means a product containing tobacco that is wrapped in temburni leaf (*dispyros melanoxylon*) or tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as beedies or bidis. For purposes of this chapter, beedies or bidis shall be considered a tobacco product;

(2) “Commissioner” means the commissioner of agriculture or the commissioner’s duly authorized representative;

(3) “Department” means the department of agriculture;

(4) “Hemp” means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three tenths of one percent (0.3 %) on a dry weight basis;

(5) “Person” means any individual, firm, fiduciary, partnership, corporation, trust, or association;

(6) “Proof of age” means a driver license or other generally accepted means of identification that describes the individual as eighteen (18) years of

age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid. Except in the case of distribution by mail, the distributor shall obtain a statement from the addressee that the addressee is eighteen (18) years of age or older;

(7) "Public place" means any public street, sidewalk or park, or any area open to the general public in any publicly owned or operated building;

(8) "Sample" means a tobacco product distributed to members of the general public at no cost for the purpose of promoting the product;

(9) "Sampling" means the distribution of samples to members of the general public in a public place;

(10) "Smoking hemp" means hemp that is offered for sale to the public with the intention that it is consumed by smoking and that does not meet the definition of a vapor product;

(11) "Tobacco product" means any product that contains tobacco and is intended for human consumption, including, but not limited to, cigars, cigarettes and bidis; and

(12) "Vapor product":

(A) Means any noncombustible product containing nicotine or any other substance that employs a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce or emit a visible or non-visible vapor;

(B) Includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product, and any vapor cartridge, any substance used to refill a vapor cartridge, or other container of a solution containing nicotine or any other substance that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product; and

(C) Does not include any product regulated under Chapter V of the Food, Drug, and Cosmetic Act (21 U.S.C. § 351 et seq.).

39-17-1504. Sale or distribution to minors unlawful — Proof of age requirement.

(a) It is unlawful for any person to sell or distribute any tobacco, smoking hemp, or vapor product to another person who has not attained eighteen (18) years of age or to purchase a tobacco, smoking hemp, or vapor product on behalf of such person under eighteen (18) years of age.

(b) It is unlawful for any person to persuade, entice, send or assist a person who has not attained eighteen (18) years of age to purchase, acquire, receive or attempt to purchase, acquire or receive a tobacco, smoking hemp, or vapor product. This section and § 39-17-1505 shall not be deemed to preclude law enforcement efforts involving the use of individuals under eighteen (18) years of age if the minor's parent or legal guardian has consented to this action.

(c) No person shall distribute tobacco, smoking hemp, or vapor product samples in or on any public street, sidewalk, or park.

(d) A person engaged in the sale or distribution of tobacco, smoking hemp, or vapor products shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under twenty-seven (27) years of age. In the case of distribution by mail, the distributor of tobacco, smoking hemp, or vapor products shall obtain from the addressee an affirmative

statement that the person is eighteen (18) years of age or older, and shall inform the recipient that the person is strictly prohibited from distributing any tobacco, smoking hemp, or vapor product, as defined by this part, to any person under eighteen (18) years of age.

39-17-1505. Prohibited purchases or possession by minors — Penalties.

(a) It is unlawful for a person who has not attained eighteen (18) years of age to possess either a tobacco, smoking hemp, or vapor product, to purchase or accept receipt of either product, or to present or offer to any person any purported proof of age that is false, fraudulent, or not actually that person's own for the purpose of purchasing or receiving any tobacco, smoking hemp, or vapor product.

(b) Any person who violates this section may be issued a citation by a law enforcement officer who has evidence of the violation. Regardless of whether a citation is issued, the product shall be seized as contraband by the law enforcement officer.

(c) A violation of this section is a civil offense, for which the juvenile court may, in its discretion, impose a civil penalty of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), which may be charged against a parent, guardian, or custodian, but not a minor. The juvenile court may, in its discretion, also impose community service work not to exceed fifty (50) hours or successful completion of a prescribed teen court program for a second or subsequent violation within a one-year period.

(d) A minor who is cooperating with law enforcement officers in an operation designed to test the compliance of other persons with this part shall not be subject to sanctions under this section.

(e) As used in this section, "law enforcement officer" means an officer, employee or agent of government who is authorized by law to investigate the commission or suspected commission of violations of Tennessee law.

(f) It is not unlawful for a person under eighteen (18) years of age to handle or transport:

(1) Tobacco, tobacco products, smoking hemp, or vapor products as a part of and in the course of the person's employment; provided, that the person is under the supervision of another employee who is at least twenty-one (21) years of age; or

(2) Tobacco, smoking hemp, or vapor products as part of an educational project that has been developed by the person for entry and display at an agricultural fair or other agricultural competition or event.

(g) Nothing in this section shall be construed to prohibit a person under eighteen (18) years of age from handling or transporting tobacco or hemp as part of and in the course of the person's involvement in any aspect of the agricultural production or storage of tobacco or hemp, the sale of raw tobacco or hemp at market or the transportation of raw tobacco or hemp to a processing facility.

39-17-1507. Vending machine sales.

(a) It is unlawful for any person to sell tobacco or smoking hemp products through a vending machine unless the vending machine is located in any of the following locations:

(1) In areas of factories, businesses, offices, or other places that are not open to the public;

(2) In places that are open to the public but to which persons under eighteen (18) years of age are denied access;

(3) In places where alcoholic beverages are sold for consumption on the premises, but only if the vending machine is under the continuous supervision of the owner or lessee of the premises or an employee of the owner or lessee of the premises, and is inaccessible to the public when the establishment is closed; and

(4) In other places, but only if the machine is under the continuous supervision of the owner or lessee of the premises or an employee of the owner or lessee of the premises, or the machine can be operated only by the use of a token purchased from the owner or lessee of the premises or an employee of the owner or lessee of the premises prior to each purchase, and is inaccessible to the public when the establishment is closed.

(b) In any place where supervision of a vending machine, or operation by token is required by this section, the person responsible for that supervision or the sale of the token shall demand proof of age from a prospective purchaser if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under twenty-seven (27) years of age.

39-17-1509. Enforcement — Inspections — Reporting — Civil penalties.

(a) The department shall enforce this part in a manner that may reasonably be expected to reduce the extent to which tobacco or smoking hemp products are sold or distributed to persons under eighteen (18) years of age, and shall conduct random, unannounced inspections at locations where tobacco or smoking hemp products are sold or distributed to ensure compliance with this part.

(b) A person who violates § 39-17-1504, § 39-17-1506, § 39-17-1507 or § 39-17-1508 shall receive only a warning letter for the person's first violation and shall not receive a civil penalty for the person's first violation. A person who violates § 39-17-1504, § 39-17-1506, § 39-17-1507 or § 39-17-1508 is subject to a civil penalty of not more than five hundred dollars (\$500) for the person's second violation, not more than one thousand dollars (\$1,000) for the person's third violation and not more than one thousand five hundred dollars (\$1,500) for the person's fourth or subsequent violation. For purposes of determining whether a violation is the person's first, second, third, fourth or subsequent violation, the commissioner shall count only those violations that occurred within the previous five (5) years. A civil penalty shall be assessed in the following manner:

(1) The commissioner shall issue the assessment of civil penalty against any person responsible for the violation;

(2) Any person against whom an assessment has been issued may secure a review of the assessment by filing with the commissioner a written petition setting forth the person's reasons for objection to the assessment and asking for a hearing before the commissioner;

(3) Any hearing before the commissioner shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3. An appeal from the final order of the commissioner may be taken

by the person to whom the assessment was issued, and the appeal proceedings shall be conducted in accordance with the judicial review provisions of the Uniform Administrative Procedures Act, codified in §§ 4-5-322 and 4-5-323; and

(4) If a petition for review is not filed within thirty (30) days after the date the person received the assessment, the person shall be deemed to have consented to the assessment, and it shall become final. Whenever an assessment has become final, the commissioner may apply to the chancery court of Davidson County for a judgment in the amount of the assessment and seek execution on the judgment. The chancery court of Davidson County shall treat a person's failure to file a petition for review of an assessment as a confession of judgment in the amount of the assessment.

(c) A person who demanded, was shown, and reasonably relied upon proof of age is not liable for a civil penalty for a violation of § 39-17-1504 or § 39-17-1507. In the case of distribution of any tobacco, smoking hemp, or vapor product by mail, a person who obtained a statement from the addressee that the addressee is at least eighteen (18) years of age is not liable for a civil penalty so long as that distributor of the tobacco, smoking hemp, or vapor product informed the addressee that § 39-17-1504 prohibits the distribution of tobacco, smoking hemp, and vapor products to a person under eighteen (18) years of age.

(d) When assessing a civil penalty, the commissioner is authorized to assess the penalty against any person or persons determined by the commissioner to be responsible, in whole or in part, for contributing to or causing the violation to occur, including, but not limited to, the owner, manager or employee of a store at which any tobacco, smoking hemp, or vapor product is sold at retail, the owner, manager or employee of an establishment in which a vending machine selling tobacco or smoking hemp products is located, and a company or any of its employees engaged in the business of sampling.

(e)(1) The owner or manager of a store that sells tobacco and smoking hemp products at retail shall provide training to the store's employees concerning the provisions of this part. As a part of this training, each employee shall, prior to selling tobacco and smoking hemp products at retail, sign a statement containing substantially the following words:

I understand that state law prohibits the sale of tobacco and smoking hemp products to persons under eighteen (18) years of age and that state law requires me to obtain proof of age from a prospective purchaser of tobacco and smoking hemp products who, based on appearance, might be as old as twenty-six (26) years of age. I promise to obey this law, and I understand that monetary or criminal penalties may be imposed on me if I violate this law.

(2) If the commissioner assesses a penalty against the store owner or manager, the owner or manager may present to the commissioner a copy of the statement described in subdivision (e)(1) that was signed by the employee who made the sale to a minor, along with a sworn statement by the owner or manager that the employee had signed the statement prior to the sale to the minor, and the name and address of the employee who made the sale. If the owner or manager does not know which employee made the sale to the minor, the owner or manager may present to the commissioner copies of the statements described in subdivision (e)(1) that were signed by all employees working at the store on the day the sale was made, along with a sworn statement that these employees had signed those statements prior to the sale

624

to the minor.

(3) When the store owner or manager presents to the commissioner the statements described in subdivision (e)(2):

(A) If the violation is the second violation determined to have occurred at that store, the penalty against the store owner or manager shall be eliminated; or

(B) If the violation is the third or subsequent violation determined to have occurred at that store, the commissioner shall consider that evidence and any other evidence with respect to the amount of the penalty against the owner or manager.

(f) The department shall prepare annually for submission by the governor to the secretary of the United States department of health and human services the report required by Section 1926 of subpart I of Part B of Title XIX of the Public Health Service Act (42 U.S.C. § 300x-26). The department shall prepare for submission to the general assembly and the public an annual report describing in detail the department's enforcement efforts under this part.

39-17-1603. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Children" means individuals who have not attained eighteen (18) years of age;

(2) "Community center" means any center operated by any city or county government that is used for children's activities;

(3) "Day care center" means any place, operated by a person, society, agency, corporation, institution or religious organization, or any other group wherein are received thirteen (13) or more children for group care for less than twenty-four (24) hours per day without transfer of custody;

(4) "Designated smoking area" means an enclosed indoor area or an outdoor area in which smoking is permitted pursuant to this part. If indoors, the smoking area shall be clearly demarcated and separate from any area in which smoking is not permitted, and shall not include more than twenty-five percent (25%) of the area of the building. The indoor smoking area shall be a fully enclosed area;

(5) "Group care home" means a home operated by any person, society, agency, corporation, or institution or any group which receives seven (7) or more children for full-time care outside their own homes in facilities owned or rented and operated by the organization;

(6) "Museum" means those indoor museums and art galleries owned or operated by the state or any political subdivision of the state, and those museums, historical societies, and art galleries owned and operated by not-for-profit corporations;

(7) "Residential treatment facility" means a residential treatment facility licensed under title 33, chapter 2, part 4;

(8) "School grounds" means any building, structure, and surrounding outdoor grounds contained within a public or private preschool, nursery school, kindergarten, elementary or secondary school's legally defined property boundaries as registered in a county register's office, and any publicly owned or leased vehicle used to transport children to or from school or any officially sanctioned or organized school event;

(9) "Smoking" means the burning of a lighted cigarette, cigar, pipe or any

other substance containing tobacco;

(10) "Vapor product" has the same meaning as defined in § 39-17-1503;

(11) "Youth development center" means a center established under title 37, chapter 5, part 2, for the detention, treatment, rehabilitation and education of children found to be delinquent; and

(12) "Zoo" means any indoor area open to the public for the purpose of viewing animals.

39-17-1604. Places where smoking and use of vapor products is prohibited.

Smoking or the use of vapor products is not permitted, and no person shall smoke or use vapor products, in the following places:

(1) Child care centers; provided, that the prohibition of this section does not apply to child care services provided in a private home. Adult staff members may be permitted to smoke or use vapor products in designated areas to which children are not allowed access. However, the child care center shall give written notification to the parent or legal guardian upon enrollment if the child care center has an indoor area designated for smoking or the use of vapor products;

(2) Any room or area in a community center while the room or area is being used for children's activities;

(3) Group care homes. Adults may smoke or use vapor products in any fully enclosed adult staff residential quarters contained within a group care home, but not in the presence of children who reside as clients in the group care home;

(4) Healthcare facilities, excluding nursing home facilities. Adult staff members may be permitted to smoke or use vapor products in designated areas to which children are not allowed access, and adults may be permitted to smoke or use vapor products outside the facility;

(5) Museums, except when used after normal operating hours for private functions not attended by children. Adult staff members may be permitted to smoke or use vapor products while at work in designated smoking areas to which children are not allowed access;

(6) All public and private kindergartens and elementary and secondary schools. Adult staff members may be permitted to smoke or use vapor products outdoors but not within one hundred feet (100') of any entrance to any building. Adults may also smoke or use vapor products in any fully enclosed adult staff residential quarters but not in the presence of children attending the school;

(7) Residential treatment facilities for children and youth. Adult staff members may be permitted to smoke or use vapor products in designated areas to which children are not allowed access;

(8) Youth development centers and facilities. Adult staff members may be permitted to smoke or use vapor products in designated areas to which children are not allowed access;

(9) Zoos. Adult staff members may be permitted to smoke or use vapor products in designated areas to which children are not allowed access; and

(10) School grounds, including any public seating areas, such as bleachers used for sporting events, or public restrooms.

40-1-106. Officials defined as magistrates.

The judges of the supreme, appellate, chancery, circuit, general sessions and juvenile courts throughout the state, judicial commissioners and county mayors in those officers' respective counties, and the presiding officer of any municipal or city court within the limit of their respective corporations, are magistrates within the meaning of this title. The judges of chancery and circuit courts have statewide jurisdiction to issue search warrants pursuant to chapter 6, part 1 of this title in any district.

40-1-111. Appointment of judicial commissioners or magistrates — Duties — Terms — Compensation — Continuing education.

(a)(1)(A) The chief legislative body of any county having a population of less than two hundred thousand (200,000) or a population of not less than two hundred seventy-six thousand (276,000) nor more than two hundred seventy-seven thousand (277,000), according to the 1970 federal census or any subsequent federal census may appoint, and the chief legislative body of any county having a population of over seven hundred thousand (700,000), according to the 1970 federal census or any subsequent federal census, may initially appoint one (1) or more judicial commissioners whose duty or duties shall include, but not be limited to, the following:

(i) Issuance of search warrants and felony arrest warrants upon a finding of probable cause and pursuant to requests from on-duty law enforcement officers and in accordance with the procedures outlined in chapters 5 and 6 of this title;

(ii) Issuance of mittimus following compliance with the procedures prescribed by § 40-5-103;

(iii) The appointing of attorneys for indigent defendants in accordance with applicable law and guidelines established by the presiding general sessions judge of the county;

(iv) The setting and approving of bonds and the release on recognizance of defendants in accordance with applicable law and guidelines established by the presiding general sessions judge of the county; and

(v) Issuance of injunctions and other appropriate orders as designated by the general sessions judges in cases of alleged domestic violence.

(B)(i) This subdivision (a)(1)(B)(i) applies to any county having a population of less than two hundred thousand (200,000) or a population of not less than two hundred seventy-six thousand (276,000) nor more than two hundred seventy-seven thousand (277,000), according to the 1970 federal census or any subsequent federal census. The term or terms of the officers shall be established by the chief legislative body of the county to which this subdivision (a)(1)(B)(i) applies but shall not exceed a four-year term. No member of the county legislative body of any county to which this subdivision (a)(1)(B)(i) applies shall be eligible for appointment as a judicial commissioner. Notwithstanding the provisions of this subdivision (a)(1)(B)(i) to the contrary, the presiding general sessions criminal judge of a county to which this subdivision (a)(1)(B)(i) applies may appoint a temporary or part-time judicial commissioner to serve at the pleasure of the presiding judge in case of absence, emergency or other need. The legislative body of any county to

which this subdivision (a)(1)(B)(i) applies, in appointing, evaluating and making decisions relative to retention and reappointment, shall take into consideration views, comments and suggestions of the judges of the courts in which the judicial commissioners are appointed to serve.

(ii) Any subsequent term of a judicial commissioner initially appointed by the chief legislative body of any county having a population of over seven hundred thousand (700,000), according to the 1970 federal census or any subsequent federal census, shall be by the general sessions judges of that county. The term or terms of the officers shall be established by the general sessions criminal court judges of the county but shall not exceed a four-year term. No member of the county legislative body of the county shall be eligible for appointment as a judicial commissioner. Notwithstanding the provisions of this subdivision (a)(1)(B)(ii) to the contrary, the presiding general sessions criminal court judge of the county may appoint a temporary, or part-time, judicial commissioner to serve at the pleasure of the presiding judge in case of absence, emergency or other need. The general sessions judges of the county in appointing, evaluating and making decisions relative to retention and reappointment shall take into consideration views, comments and suggestions of the judges of the courts in which the judicial commissioners are appointed to serve.

(iii) Any subsequent term of a judicial commissioner initially appointed by the chief legislative body of any county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census, shall be by the general sessions judges of that county. In the event that the general sessions judges are unable to agree on the appointment of a judicial commissioner, the appointment shall be made by the chief legislative body of the county; provided, that any appointment made by the chief legislative body of the county shall not be construed to divest the general sessions judges of the supervisory authority over the judicial commissioner.

(C) In any county having a population greater than seven hundred thousand (700,000), according to the 1970 federal census or any subsequent federal census, to be eligible for appointment and service as a judicial commissioner a person must be licensed to practice law in this state.

(D)(i) Any county, having a population greater than seven hundred thousand (700,000), according to the 1970 federal census or any subsequent federal census, which appoints and makes use of judicial commissioners shall maintain records sufficient to allow an annual determination of whether the use of judicial commissioners is accomplishing the purposes intended.

(ii) On an annual basis the county legislative body shall conduct a public hearing to examine and evaluate the program of judicial commissioners and to determine if the program is being conducted in accordance with law and is contributing to the orderly, effective and fair administration of justice. As a part of the public hearing the county legislative body shall examine the effectiveness of the system of judicial commissioners and hear the opinions of the public concerning the system. The county legislative body shall give notice of the public

hearing at least thirty (30) days prior to the meeting.

(iii) Following the hearing and not later than April 1 of each year, the county legislative body shall cause to be submitted to the judges of the general sessions criminal court of the county, the chair of the judiciary committee of the senate and the chair of the judiciary committee of the house of representatives a written report setting forth findings and the overall evaluation of the use of judicial commissioners.

(2) The judicial commissioner or commissioners shall be compensated from the general fund of the county in an amount to be determined by the chief legislative body. Fees established and authorized by § 8-21-401 shall be paid to the county general fund upon the services detailed in § 8-21-401 being performed by a judicial commissioner.

(b)(1) Notwithstanding any provision of this section to the contrary, a judge of a court of general sessions in a county having a population of not less than fourteen thousand seven hundred (14,700) nor more than fourteen thousand eight hundred (14,800), according to the 1970 federal census or any subsequent federal census, may appoint one (1) or more judicial commissioners whose duties shall be the same as those prescribed for judicial commissioners in subsection (a). The judge may appoint a commissioner if the county legislative body of the counties noted in subsection (a) does not appoint a judicial commissioner before May 1, 1980. The term of the judicial officer shall be for one (1) year or until the county legislative body appoints a judicial commissioner as provided by subsection (a).

(2) A judicial commissioner who is appointed by a general sessions judge as outlined in subdivision (b)(1) shall serve without compensation unless an amount of compensation is specifically established by the county legislative body.

(c) Notwithstanding any provision of this section to the contrary, in any county having a population of not less than two hundred seventy-six thousand (276,000) nor more than two hundred seventy-seven thousand (277,000), according to the 1970 federal census or any subsequent federal census, any appointment of a judicial commissioner pursuant to subsection (a) shall be subject to the approval of a majority of the general sessions judges in the county.

(d)(1) Notwithstanding subsections (a)-(c), the legislative body of any county having a population of not less than forty-one thousand four hundred (41,400) nor more than forty-one thousand six hundred (41,600), according to the 1990 federal census or any subsequent federal census, may, by resolution, create the position of one (1) or more judicial commissioners.

(2) The duties of a commissioner shall include, but are not limited to, the following:

- (A) The issuance of arrest warrants upon a finding of probable cause;
- (B) The setting of bonds and recognizance in accordance with the procedures outlined in chapters 5 and 6 of this title;
- (C) The issuance of search warrants where authorized by the general sessions judge or a judge of a court of record; and
- (D) The issuance of mittimus following compliance with the procedures prescribed by § 40-5-103.

(3) The term of a judicial commissioner shall be established by the general sessions judge of the county, but in no event shall the term exceed four (4) years.

(4) A judicial commissioner shall be compensated from the general fund of the county in an amount to be determined by the general sessions judge of the county and subject to the approval of the county legislative body. Fees established and authorized by § 8-21-401 shall be paid to the general fund upon the services detailed in § 8-21-401 being performed by a judicial commissioner.

(5) A judicial commissioner shall be selected and appointed by the general sessions judge in the county, and shall serve at the pleasure of such general sessions judge, but not longer than the term specified in subdivision (d)(3). (e)(1) Notwithstanding subsections (a)-(d), any county having a population of not less than three hundred seven thousand (307,000) nor more than three hundred eight thousand (308,000), according to the 2000 federal census or any subsequent federal census, may elect to establish judicial commissioners to assist the general sessions court in accordance with this subdivision (e)(1). The county legislative body may appoint one (1) or more attorneys to serve as judicial commissioners. The duties of a judicial commissioner shall include, but not be limited to the following:

(A) Issuance of arrest and search warrants upon a finding of probable cause in accordance with the procedures outlined in chapters 5 and 6 of this title;

(B) Issuance of mittimus following compliance with the procedures prescribed by § 40-5-103;

(C) Appointing attorneys for indigent defendants in accordance with applicable law and guidelines established by the presiding general sessions judge of the county;

(D) Setting and approving bonds and the release on recognizance of defendants in accordance with chapter 11 of this title; and

(E) Setting bond for the circuit court judges and chancellors in cases involving violations of orders of protection between the hours of nine o'clock p.m. (9:00 p.m.) and seven o'clock a.m. (7:00 a.m.) on weekdays, and on weekends, holidays and at any other time when the judge or chancellor is unavailable to set bond.

(2) The term of office for a judicial commissioner shall be established by the county legislative body, but such term shall not exceed four (4) years. A member of the county legislative body is not eligible for appointment as a judicial commissioner.

(3) A judicial commissioner shall be compensated from the general fund of the county in an amount to be determined by the county legislative body. Fees established and authorized by § 8-21-401 shall be paid to the county general fund upon the services detailed therein being performed by a judicial commissioner.

(f)(1) Beginning January 1, 2010, each judicial commissioner who is appointed to serve pursuant to this section must complete twelve (12) hours of continuing education each calendar year, ten (10) hours of which must be completed by attendance at conferences or courses sponsored or approved by the Judicial Commissioners Association of Tennessee. The remaining two (2) hours may be completed by attendance at classes sponsored by either the Judicial Commissioners Association of Tennessee or the Tennessee Court Clerks Association, or by local in-service education. At least six (6) hours of the total twelve (12) hours must be taught by a person who is licensed to practice law in this state.

(2) Any judicial commissioner who is licensed to practice law in this state is authorized to use continuing legal education credits toward completion of the ten (10) hours, which otherwise must be completed by attendance at conferences or courses sponsored or approved by the Judicial Commissioners Association of Tennessee.

(3) All judicial commissioners must complete, as part of the twelve (12) required hours, the following classes:

- (A) At least two (2) hours concerning domestic violence or child abuse;
- (B) At least one (1) hour concerning bail and bonds; and
- (C) At least one (1) hour concerning ethics.

(4) All counties for which judicial commissioners are appointed to serve pursuant to this section shall provide all necessary funding for their respective judicial commissioners to complete the continuing education required by this subsection (f).

(5) All records indicating satisfaction of the continuing education requirements for judicial commissioners shall be maintained by each county and kept on the file for at least seven (7) years.

(6) Notwithstanding this subsection (f), in any county in which the judicial commissioner is selected by the general sessions judge or judges, the county legislative body of such county may elect, by a two-thirds ($\frac{2}{3}$) majority, to allow each judicial commissioner to receive twelve (12) hours of appropriate continuing education each calendar year under the supervision of the appointing general sessions judge or judges rather than the Judicial Commissioners Association of Tennessee or the Tennessee Court Clerks Association. Further, in any county that has previously made this election, that county may later rescind that action by a subsequent two-thirds ($\frac{2}{3}$) majority vote of its county legislative body as to allow the judicial commissioners to receive the required training through the Judicial Commissioners Association of Tennessee or the Tennessee Court Clerks Association.

(7) Subject to appropriation, funds from the judicial commissioner continuing education account, created in § 67-4-602(k), shall be used by the Judicial Commissioners Association of Tennessee for the development and presentation of continuing education programs, courses and conferences for judicial commissioners in this state.

(g) Judicial commissioners duly appointed pursuant to this section in any county with a population not less than two hundred seventy-six thousand (276,000) nor more than two hundred seventy-seven thousand (277,000), according to the 1970 federal census or any subsequent federal census, shall be known as "magistrates."

(h)(1) In any county having a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four hundred thirty-two thousand three hundred (432,300), according to the 2010 federal census or any subsequent federal census, there is created the position of domestic abuse magistrate.

(2) Notwithstanding any other law to the contrary, the domestic abuse magistrate created by this subsection (h) shall be appointed by the judge of the fourth circuit court of any such county and shall hold office for a term of eight (8) years from the date of appointment. The magistrate shall be eligible for reappointment to successive eight-year terms and shall be compensated from the general fund of the county in an amount to be determined by the county legislative body. Upon making a selection, the judge shall reduce the

appointment to writing and file it with the fourth circuit court clerk of any county to which this subsection (h) applies. The domestic abuse magistrate, once appointed, shall regularly perform the duties set out in this subsection (h) within the approximate time period that the fourth circuit court begins and ends its daily docket, and the magistrate shall be styled as magistrate judge.

(3) To qualify for the position of domestic abuse magistrate, the applicant must:

- (A) Be at least thirty (30) years of age;
 - (B) Be a resident of the county funding the position;
 - (C) Be an attorney, licensed to practice law in the courts of this state;
- and

(D) Have served as a judicial commissioner or magistrate pursuant to subsection (a) for at least a full four-year term prior to application.

(4) No person who is a judicial commissioner under subsection (a) or a magistrate under subsection (g) prior to the appointment of the domestic abuse magistrate may simultaneously hold that position and the position of domestic abuse magistrate under this subsection (h).

(5) For purposes of:

(A) Title 36, chapter 3, part 6, the domestic abuse magistrate shall be considered a “court” as defined in § 36-3-601(3)(A) and (D), and shall have all jurisdiction and authority necessary to serve in that function for the employing county; and

(B) Chapter 5, part 1 of this title, the domestic abuse magistrate shall be considered a “magistrate” as defined in § 40-5-102, and shall have all of the jurisdiction and authority necessary to serve in that function for the employing county, and the domestic abuse magistrate shall complete the judicial continuing education requirements of subsection (f) in the same manner as a judicial commissioner.

(6) The domestic abuse magistrate shall have, regardless of whether the case involves alleged domestic abuse, the following duties pursuant to this chapter, the Tennessee Rules of Civil Procedure, the Tennessee Rules of Criminal Procedure, and applicable statutes:

- (A) Those conferred upon a court by title 36, chapter 3, part 6;
- (B) Issuing or denying temporary or ex-parte orders of protection;
- (C) Setting and approving bond in cases of civil and criminal contempt for alleged violations of orders of protection;
- (D) Issuing injunctions and other appropriate orders in cases of alleged domestic violence;
- (E) Setting and approving of bonds and release on recognizance of defendants in accordance with applicable law;
- (F) Issuing mittimus in compliance with § 40-5-103;
- (G) Issuing criminal arrest warrants, criminal summons, and search warrants upon a finding of probable cause;
- (H) Appointing attorneys for indigent defendants and respondents in accordance with applicable law;
- (I) Conducting initial appearances in accordance with Rule 5 of the Tennessee Rules of Criminal Procedure;
- (J) Setting and approving bond for probation violation warrants;
- (K) Issuing attachments, capias, or conditional bond forfeitures;
- (L) Conducting compliance review dockets to examine and report to the appropriate judge any findings and conclusions regarding compliance with

court orders;

(M) Conducting initial appearances for any defendant following arrest for a crime involving domestic abuse when conducted pursuant to the requirements imposed by § 36-3-602(c) [repealed]; and

(N) Any other judicial duty not prohibited by the constitution, statute, or applicable rules, when requested by a judge.

(7) If the domestic abuse magistrate is carrying out one (1) of the duties of the office under this subsection (h), the failure to appear before the magistrate constitutes failure to appear and shall subject the defendant or respondent to arrest and forfeiture of bond.

(8) If the appointed domestic abuse magistrate is absent or unavailable for any reason, the magistrate has the authority to appoint special, substitute, or temporary magistrates to carry out the duties of this section. A substitute magistrate shall be an attorney, licensed to practice law in the courts of this state, a resident of the county of the appointing domestic abuse magistrate, and not less than thirty (30) years of age. An order of appointment for a special, substitute, or temporary magistrate shall be for a fixed period of time and shall be reduced to writing and filed with the fourth circuit court clerk.

(9) The domestic abuse magistrate may also accept appointment by the judge of the fourth circuit court to serve as a special master to the fourth circuit court for any purpose established by the judge. The appointment may be made by the judge at the same time as the appointment to the position of domestic abuse magistrate, or at any time during the magistrate's term.

40-2-101. Felonies.

(a) A person may be prosecuted, tried and punished for an offense punishable with death or by imprisonment in the penitentiary during life, at any time after the offense is committed.

(b) Prosecution for a felony offense shall begin within:

- (1) Fifteen (15) years for a Class A felony;
- (2) Eight (8) years for a Class B felony;
- (3) Four (4) years for a Class C or Class D felony; and
- (4) Two (2) years for a Class E felony.

(c) Notwithstanding subsections (a) and (b), offenses arising under the revenue laws of the state shall be commenced within the three (3) years following the commission of the offense, except that the period of limitation of prosecution shall be six (6) years in the following instances:

(1) Offenses involving the defrauding or attempting to defraud the state of Tennessee or any agency of the state, whether by conspiracy or not, and in any manner;

(2) The offense of willfully attempting in any manner to evade or defeat any tax or the payment of a tax;

(3) The offense of willfully aiding or abetting, or procuring, counseling or advising, the preparation or presentation under, or in connection with, any matter arising under the revenue laws of the state, or a false or fraudulent return, affidavit, claim or document, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim or document; and

(4) The offense of willfully failing to pay any tax, or make any return at

the time or times required by law or regulation.

(d) Notwithstanding the provisions of subdivision (b)(3) to the contrary, prosecution for the offense of arson as prohibited by § 39-14-301 shall commence within eight (8) years from the date the offense occurs.

(e) Prosecutions for any offense committed against a child prior to July 1, 1997, that constitutes a criminal offense under § 39-2-601 [repealed], § 39-2-603 [repealed], § 39-2-604 [repealed], § 39-2-606 [repealed], § 39-2-607 [repealed], § 39-2-608 [repealed], § 39-2-612 [repealed], § 39-4-306 [repealed], § 39-4-307 [repealed], § 39-6-1137 [repealed], or § 39-6-1138 [repealed], or under §§ 39-13-502 — 39-13-505, § 39-15-302 or § 39-17-902 shall commence no later than the date the child attains the age of majority or within four (4) years after the commission of the offense, whichever occurs later; provided, that pursuant to subsection (a), an offense punishable by life imprisonment may be prosecuted at any time after the offense has been committed.

(f) For offenses committed prior to November 1, 1989, the limitation of prosecution in effect at that time shall govern.

(g)(1) Prosecutions for any offense committed against a child on or after July 1, 1997, that constitutes a criminal offense under § 39-17-902 shall commence no later than the date the child reaches twenty-one (21) years of age; provided, that if subsection (a) or (b) provides a longer period of time within which prosecution may be brought than this subsection (g), the applicable provision of subsection (a) or (b) shall prevail.

(2) Prosecutions for any offense committed against a child on or after July 1, 1997, but prior to June 20, 2006, that constitutes a criminal offense under §§ 39-13-502 — 39-13-505, § 39-13-522 or § 39-15-302 shall commence no later than the date the child reaches twenty-one (21) years of age; provided, that if subsection (a) or (b) provides a longer period of time within which prosecution may be brought than this subsection (g), the applicable provision of subsection (a) or (b) shall prevail.

(h)(1) A person may be prosecuted, tried and punished for any offense committed against a child on or after June 20, 2006, that constitutes a criminal offense under § 39-13-504, § 39-13-505, § 39-13-527 or § 39-15-302, no later than twenty-five (25) years from the date the child becomes eighteen (18) years of age.

(2) A person may be prosecuted, tried and punished for any offense committed against a child on or after June 20, 2006, that constitutes a criminal offense under § 39-13-502, § 39-13-503 or § 39-13-522 no later than twenty-five (25) years from the date the child becomes eighteen (18) years of age.

(i)(1) A person may be prosecuted, tried and punished for any offense committed against a child on or after July 1, 2007, that constitutes a criminal offense under § 39-13-532, no later than twenty-five (25) years from the date the child becomes eighteen (18) years of age.

(2) A person may be prosecuted, tried and punished for any offense committed against a child on or after July 1, 2007, that constitutes a criminal offense under § 39-13-531, no later than twenty-five (25) years from the date the child becomes eighteen (18) years of age.

(j) A person may be prosecuted, tried and punished for any offense committed against a child on or after July 1, 2012, that constitutes a criminal offense under § 39-17-902, § 39-17-1003, § 39-17-1004, or § 39-17-1005, no later than twenty-five (25) years from the date the child becomes eighteen (18) years

634

of age.

(k)(1) A person may be prosecuted, tried and punished for any offense committed against a child on or after July 1, 2013, that constitutes a criminal offense under § 39-13-309 or § 39-13-529, no later than fifteen (15) years from the date the child becomes eighteen (18) years of age.

(2) A person may be prosecuted, tried, and punished for any offense committed against a child on or after July 1, 2013, that constitutes a criminal offense under § 39-13-514 no later than ten (10) years from the date the child becomes eighteen (18) years of age.

(3)(A) A person may be prosecuted, tried, and punished for any offense committed against a child on or after July 1, 2013, but prior to July 1, 2015, that constitutes a criminal offense under § 39-13-515 no later than ten (10) years from the date the child becomes eighteen (18) years of age.

(B) A person may be prosecuted, tried, and punished for any offense committed against a child on or after July 1, 2015, that constitutes a criminal offense under § 39-13-515 no later than twenty-five (25) years from the date the child becomes eighteen (18) years of age.

(l)(1) Notwithstanding subsections (b), (g), (h), and (i) to the contrary, a person may be prosecuted, tried, and punished at any time after the commission of an offense if:

(A) The offense was one (1) of the following:

- (i) Aggravated rape, as prohibited by § 39-13-502; or
- (ii) Rape, as prohibited by § 39-13-503;

(B) The victim was an adult at the time of the offense;

(C) The victim notifies law enforcement or the office of the district attorney general of the offense within three (3) years of the offense; and

(D) The offense is committed:

- (i) On or after July 1, 2014; or
- (ii) Prior to July 1, 2014, unless prosecution for the offense is barred because the applicable time limitation set out in this section for prosecution of the offense expired prior to July 1, 2014.

(2) If subdivision (l)(1) does not apply to the specified offenses, prosecution shall be commenced within the times otherwise provided by this section.

(m) A person may be prosecuted, tried, and punished for any offense committed against a child on or after July 1, 2016, that constitutes the offense of aggravated statutory rape under § 39-13-506(c), no later than fifteen (15) years from the date the child becomes eighteen (18) years of age.

(n) Notwithstanding subsection (b), prosecutions for any offense committed on or after July 1, 2016, that constitutes the offense of aggravated child abuse, or aggravated child neglect or endangerment, under § 39-15-402, shall commence by the later of:

- (1) Ten (10) years after the child reaches eighteen (18) years of age; or
- (2) The time within which prosecution must be commenced pursuant to subsection (b).

(o) A person may be prosecuted, tried and punished for any offense committed against a child on or after July 1, 2019, that constitutes the offense of female genital mutilation, under § 39-13-110, no later than twenty-five (25) years from the date the child becomes eighteen (18) years of age.

(p) Notwithstanding subsection (b), a person may be prosecuted, tried, and punished for second degree murder, as prohibited by § 39-13-210, that is committed on or after July 1, 2019, at any time after the offense is committed.

(q)(1) Notwithstanding subsections (b), (g), (h), (i), (j), (k), or (m), prosecution for the following offenses, when committed against a minor under eighteen (18) years of age shall commence as provided by this subsection (q):

- (A) Trafficking for a commercial sex act, as prohibited by § 39-13-309;
- (B) Aggravated rape, as prohibited by § 39-13-502;
- (C) Rape, as prohibited by § 39-13-503;
- (D) Aggravated sexual battery, as prohibited by § 39-13-504;
- (E) Sexual battery, as prohibited by § 39-13-505;
- (F) Mitigated statutory rape, as prohibited by § 39-13-506;
- (G) Statutory rape, as prohibited by § 39-13-506;
- (H) Aggravated statutory rape, as prohibited by § 39-13-506(c);
- (I) Indecent exposure, as prohibited by § 39-13-511, when the offense is classified as a felony offense;
- (J) Patronizing prostitution, as prohibited by § 39-13-514;
- (K) Promotion of prostitution, as prohibited by § 39-13-515;
- (L) Continuous sexual abuse of a child, as prohibited by § 39-13-518;
- (M) Rape of a child, as prohibited by § 39-13-522;
- (N) Sexual battery by an authority figure, as prohibited by § 39-13-527;
- (O) Solicitation of a minor, as prohibited by § 39-13-528, when the offense is classified as a felony offense;
- (P) Soliciting sexual exploitation of a minor - exploitation of a minor by electronic means, as prohibited by § 39-13-529;
- (Q) Aggravated rape of a child, as prohibited by § 39-13-531;
- (R) Statutory rape by an authority figure, as prohibited by § 39-13-532;
- (S) Unlawful photographing, as prohibited by § 39-13-605, when the offense is classified as a felony offense;
- (T) Observation without consent, as prohibited by § 39-13-607, when the offense is classified as a felony offense;
- (U) Incest, as prohibited by § 39-15-302;
- (V) Sexual exploitation of a minor, as prohibited by § 39-17-1003;
- (W) Aggravated sexual exploitation of a minor, as prohibited by § 39-17-1004; or
- (X) Especially aggravated sexual exploitation of a minor, as prohibited by § 39-17-1005.

(2) A person may be prosecuted, tried, and punished for an offense listed in subdivision (q)(1) at any time after the commission of an offense if:

- (A) The victim was under thirteen (13) years of age at the time of the offense; or
- (B)(i) The victim was at least thirteen (13) years of age but no more than seventeen (17) years of age at the time of the offense; and
- (ii) The victim reported the offense to another person prior to the victim attaining twenty-three (23) years of age.

(3)(A) Except as provided in subdivision (q)(3)(B), a person may be prosecuted, tried, and punished for an offense listed in subdivision (q)(1) at any time after the commission of an offense if:

- (i) The victim was at least thirteen (13) years of age but no more than seventeen (17) years of age at the time of the offense; and
- (ii) The victim did not meet the reporting requirements of subdivision (q)(2)(B)(ii).

(B) In order to commence prosecution for an offense listed in subdivision (q)(1) under the circumstances described in subdivision (q)(3)(A), at a

636

date that is more than twenty-five (25) years from the date the victim becomes eighteen (18) years of age, the prosecution is required to offer admissible and credible evidence corroborating the allegations or similar acts by the defendant.

(4) This subsection (q) applies to offenses:

(A) Committed on or after July 1, 2019; or

(B) Committed prior to July 1, 2019, unless prosecution for the offense is barred because the applicable time limitation set out in this section for prosecution of the offense expired prior to July 1, 2019.

40-7-118. Use of citations in lieu of continued custody of an arrested person.

(a) As used in this section, unless the context otherwise requires:

(1) "Citation" means a written order issued by a peace officer requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time. The order shall require the signature of the person to whom it is issued;

(2) "Magistrate" means any state judicial officer, including the judge of a municipal court, having original trial jurisdiction over misdemeanors or felonies; and

(3)(A) "Peace officer" means an officer, employee or agent of government who has a duty imposed by law to:

(i) Maintain public order;

(ii) Make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; and

(iii) Investigate the commission or suspected commission of offenses; and

(B) "Peace officer" also includes an officer, employee or agent of government who has the duty or responsibility to enforce laws and regulations pertaining to forests in this state.

(b)(1) A peace officer who has arrested a person for the commission of a misdemeanor committed in the peace officer's presence, or who has taken custody of a person arrested by a private person for the commission of a misdemeanor, shall issue a citation to the arrested person to appear in court in lieu of the continued custody and the taking of the arrested person before a magistrate. If the peace officer is serving an arrest warrant or capias issued by a magistrate for the commission of a misdemeanor, it is in the discretion of the issuing magistrate whether the person is to be arrested and taken into custody or arrested and issued a citation in accordance with this section in lieu of continued custody. The warrant or capias shall specify the action to be taken by the serving peace officer who shall act accordingly.

(2)(A) This subsection (b) does not apply to an arrest for the offense of driving under the influence of an intoxicant as prohibited by § 55-10-401, unless the offender was admitted to a hospital, or detained for medical treatment for a period of at least three (3) hours, for injuries received in a driving under the influence incident.

(B) This subsection (b) does not apply to any misdemeanor offense for which § 55-10-207 or § 55-12-139 authorizes a traffic citation in lieu of arrest, continued custody and the taking of the arrested person before a magistrate.

(3) A peace officer may issue a citation to the arrested person to appear in court in lieu of the continued custody and the taking of the arrested person before a magistrate if a person is arrested for:

(A) The offense of theft which formerly constituted shoplifting, in violation of § 39-14-103;

(B) Issuance of bad checks, in violation of § 39-14-121;

(C) Use of a revoked or suspended driver license in violation of § 55-50-504, § 55-50-601 or § 55-50-602;

(D) Assault or battery as those offenses are defined by common law, if the officer believes there is a reasonable likelihood that persons would be endangered by the arrested person if a citation were issued in lieu of continued physical custody of the defendant; or

(E) Prostitution, in violation of § 39-13-513, if the arresting party has knowledge of past conduct of the defendant in prostitution or has reasonable cause to believe that the defendant will attempt to engage in prostitution activities within a reasonable period of time if not arrested.

(c) A peace officer may arrest and take a person into custody if:

(1) A reasonable likelihood exists that the arrested person will fail to appear in court; or

(2) The prosecution of the offense for which the person was arrested, or of another offense, would thereby be jeopardized.

(d) No citation shall be issued under this section if:

(1) The person arrested requires medical examination or medical care, or if the person is unable to care for the person's own safety;

(2) There is a reasonable likelihood that the offense would continue or resume, or that persons or property would be endangered by the arrested person;

(3) The person arrested cannot or will not offer satisfactory evidence of identification, including the providing of a field-administered fingerprint or thumbprint which a peace officer may require to be affixed to any citation;

(4) [Deleted by 2019 amendment.]

(5) [Deleted by 2019 amendment.]

(6) The person demands to be taken immediately before a magistrate or refuses to sign the citation;

(7) The person arrested is so intoxicated that the person could be a danger to the person's own self or to others;

(8) There are one (1) or more outstanding arrest warrants for the person; or

(9) The person is subject to arrest pursuant to § 55-10-119.

(e) In issuing a citation, the officer shall:

(1) Prepare a written order which shall include the name and address of the cited person, the offense charged and the time and place of appearance;

(2) Have the offender sign the original and duplicate copy of the citation. The officer shall deliver one (1) copy to the offender and retain the other; and

(3) Release the cited person from custody.

(f) By accepting the citation, the defendant agrees to appear at the arresting law enforcement agency prior to trial to be booked and processed. Failure to so appear is a Class A misdemeanor.

(g) If the person cited fails to appear in court on the date and time specified or fails to appear for booking and processing prior to the person's court date, the court shall issue a bench warrant for the person's arrest.

(h) Whenever a citation has been prepared, delivered and filed with a court

as provided in this section, a duplicate copy of the citation constitutes a complaint to which the defendant shall answer. The duplicate copy shall be sworn to by the issuing officer before any person authorized by law to administer oaths.

(i) Nothing in this section shall be construed to affect a peace officer's authority to conduct a lawful search even though the citation is issued after arrest.

(j) Any person who intentionally, knowingly or willfully fails to appear in court on the date and time specified on the citation or who knowingly gives a false or assumed name or address commits a Class A misdemeanor, regardless of the disposition of the charge for which the person was originally arrested. Proof that the defendant failed to appear when required constitutes prima facie evidence that the failure to appear is willful.

(k) Whenever an officer makes a physical arrest for a misdemeanor and the officer determines that a citation cannot be issued because of one (1) of the seven (7) reasons enumerated in subsection (d), the officer shall note the reason for not issuing a citation on the arrest ticket. An officer who, on the basis of facts reasonably known or reasonably believed to exist, determines that a citation cannot be issued because of one (1) of the seven (7) reasons enumerated in subsection (d) shall not be subject to civil or criminal liability for false arrest, false imprisonment or unlawful detention.

(l)(1) Each citation issued pursuant to this section shall have printed on it in large, conspicuous block letters the following:

NOTICE: FAILURE TO APPEAR IN COURT ON THE DATE ASSIGNED BY THIS CITATION OR AT THE APPROPRIATE POLICE STATION FOR BOOKING AND PROCESSING WILL RESULT IN YOUR ARREST FOR A SEPARATE CRIMINAL OFFENSE WHICH IS PUNISHABLE BY A JAIL SENTENCE OF ELEVEN (11) MONTHS AND TWENTY-NINE (29) DAYS AND/OR A FINE OF UP TO TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500).

(2) Each person receiving a citation under this section shall sign this citation indicating the knowledge of the notice listed in subdivision (l)(1). The signature of each person creates a presumption of knowledge of the notice and a presumption of intent to violate this section if the person should not appear as required by the citation.

(3) Whenever there are changes in the citation form notice required by this subsection (l), a law enforcement agency may exhaust its existing supply of citation forms before implementing the new citation forms.

(m) This section shall govern all aspects of the issuance of citations in lieu of the continued custody of an arrested person, notwithstanding any provision of Rule 3.5 of the Tennessee Rules of Criminal Procedure to the contrary.

(n) In cases in which:

(1) The public will not be endangered by the continued freedom of the suspected misdemeanant; and

(2) The law enforcement officer has reasonable proof of the identity of the suspected misdemeanant,

(3) [Deleted by 2019 amendment.]

the general assembly finds that the issuance of a citation in lieu of arrest of the suspected misdemeanant will result in cost savings and increased public safety by allowing the use of jail space for dangerous individuals and/or felons and by keeping officers on patrol. Accordingly, the general assembly encourages all

law enforcement agencies to so utilize misdemeanor citations and to encourage their personnel to use those citations when reasonable and according to law.

40-7-120. Release citations for misdemeanants.

(a) As used in this section, except as otherwise specifically indicated:

(1) "Citation" means a written order issued by a sheriff requiring a person accused of violating the law to appear in a designated court at a specified date and time. The order shall require the signature of the person to whom it is issued; and

(2) "Magistrate" means any state judicial officer, including the judge of a municipal court, having original trial jurisdiction over misdemeanors or felonies.

(b) A sheriff or sheriff's designee may, at a county jail, issue a release citation to any person who has been arrested for a violation of law which is punishable as a misdemeanor and who has been booked and processed for that violation.

(c) The citation shall demand the person cited to appear in court at a stated time and place, and it shall state the name and address of the person cited, the name of the issuing sheriff and the offense charged. The time specified on the citation to appear shall be as fixed by the sheriff issuing the citation.

(d) The citation shall be executed in triplicate, the original to be delivered to the court specified in the citation, one (1) copy to be given to the person cited, and one (1) copy to be retained by the sheriff issuing the citation. The original citation delivered to the court shall be sworn to by the issuing sheriff before a magistrate or official lawfully assigned that duty by a magistrate. The person cited shall signify the person's acceptance of the citation and the person's agreement to appear in court as directed by signing the original citation.

(e) Whenever a release citation has been prepared, accepted and the original citation delivered to the court as provided in this section, the original citation delivered to the court shall constitute a complaint to which the person cited must answer, and neither the arresting officer nor the sheriff issuing the citation shall be required to file any other affidavit of complaint with the court.

(f) The signature of the person cited shall create a presumption of knowledge of notice to appear and a presumption of intent to violate this section if the person should not appear as required by the citation.

(g) The citation must give notice to the person cited that the person's failure to appear as ordered is punishable as a separate misdemeanor offense. Each citation issued pursuant to this section must have printed on it in large, conspicuous block letters, the following:

NOTICE: FAILURE TO APPEAR IN COURT ON THE DATE ASSIGNED
BY THIS CITATION WILL RESULT IN YOUR ARREST FOR A SEPARATE
CRIMINAL OFFENSE WHICH IS PUNISHABLE BY A JAIL SENTENCE
OF UP TO ELEVEN (11) MONTHS, TWENTY-NINE (29) DAYS AND/OR A
FINE OF UP TO TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500).

(h) Any person who intentionally, knowingly or willfully fails to appear in court on the date and time specified on the citation commits a separate misdemeanor offense, regardless of the disposition of the charge for which the person was originally arrested, and upon conviction shall be punished by imprisonment in the county jail or workhouse for not more than eleven (11) months, twenty-nine (29) days, or by a fine of not more than two thousand five

640

hundred dollars (\$2,500) or, in the discretion of the court, by both imprisonment and fine. Proof that the defendant failed to appear when required constitutes prima facie evidence that the failure to appear is willful.

(i) If the person cited fails to appear in court on the date and time specified, the court may issue a bench warrant for the person's arrest.

(j) Nothing in this section shall be construed to affect a sheriff's authority to conduct a lawful search even though the citation is issued after arrest.

(k) No citation shall be issued under this section if:

(1) The person arrested requires medical examination or medical care, or if the person is unable to care for the person's own safety;

(2) A reasonable likelihood exists that the arrested person will fail to appear in court;

(3) The person demands to be taken immediately before a magistrate or refuses to sign the citation;

(4) The person arrested is so intoxicated that the person could pose a danger to the person's own self or to others;

(5) There are one (1) or more outstanding arrest warrants for the person;

(6) There is a reasonable likelihood that the offense would continue or resume, or that persons or property would be endangered by the arrested person;

(7) The person arrested cannot or will not offer satisfactory evidence of identification, including the providing of a field-administered fingerprint or thumbprint which a peace officer may require to be affixed to any citation; and

(8) The prosecution of the offense for which the person was arrested, or of another offense, would thereby be jeopardized.

(l) This section governs all aspects of the issuance of release citations to an arrested person, notwithstanding any provision of Rule 3.5 of the Tennessee Rules of Criminal Procedure to the contrary.

(m) No sheriff may issue a release citation as authorized in this section after the issuance of a mittimus.

(n) This section is intended to be in addition and supplemental to § 40-7-118, and shall not be construed to supersede that section as it existed on July 1, 1989.

(o) This section does not apply to any county having a metropolitan form of government with a population of more than four hundred seventy thousand (470,000), according to the 1980 federal census or any subsequent federal census.

40-11-139. Forfeiture of bail security — Notice to defendant and sureties.

(a) If the defendant whose release is secured under § 40-11-122 does not comply with the conditions of the bail bond, the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of the order of forfeiture shall be immediately sent by regular mail by the clerk of the court to the defendant at the defendant's last known address. The defendant's surety will be served with scire facias upon the forfeiture entered and a capias shall be issued for the defendant. When the defendant, who failed to appear pursuant to conditions of a bail bond, is arrested on a capias, the surety on the defendant's forfeited bond is released.

(b) After the expiration of one hundred eighty (180) days from the date

surety is served with scire facias or scire facias is returned to the clerk unserved or undelivered, the court may enter judgment for the state against the defendant and the defendant's sureties for the amount of the bail and costs of the proceedings.

(c) No execution shall issue upon a final forfeit, nor shall proceedings be taken for its enforcement until the expiration of thirty (30) days after its entry.

40-11-152. Global positioning monitoring system as a condition of bail.

(a)(1) For the purposes of this part, "global positioning monitoring system" means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology.

(2) "Global positioning monitoring system" does not include a system that contains or operates global positioning system technology, radio frequency identification technology or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

(b) Pursuant to § 40-11-150, the magistrate may order any defendant who is arrested for the offense of stalking, aggravated stalking or especially aggravated stalking, as defined in § 39-17-315, any criminal offense defined in title 39, chapter 13, in which the alleged victim of the offense is a victim as defined in § 36-3-601(5), (10) or (11), or is in violation of an order of protection as authorized by title 36, chapter 3, part 6, to do the following as a condition of bail:

(1) Carry or wear a global positioning monitoring system device and, except as provided by subsection (h), pay the costs associated with operating that system in relation to the defendant; or

(2) If the alleged victim of the offense consents after receiving the information described by subsection (d) and, except as provided by subsection (h), pay the costs associated with providing the victim with an electronic receptor device that:

(A) Is capable of receiving the global positioning monitoring system information from the device carried or worn by the defendant; and

(B) Notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under § 40-11-150.

(c) Before imposing a condition described by subsection (b), the magistrate must afford an alleged victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and shall consider the victim's request, if any, in determining the locations the defendant will be ordered to refrain from going to or near. If the magistrate imposes a condition described by subsection (b), the magistrate shall specifically describe the locations that the defendant has been ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations.

(d) Before imposing a condition described by subdivision (b)(2), the magistrate must provide to an alleged victim information regarding:

(1) The victim's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the magistrate terminate the victim's participation;

(2) The manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;

(3) Any locations that the defendant is ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations;

(4) Any sanctions that the magistrate may impose on the defendant for violating a condition of bond imposed under this section;

(5) The procedure that the victim is to follow, and support services available to assist the victim, if the defendant violates a condition of bond or if the global positioning monitoring system equipment fails;

(6) Community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of domestic violence; and

(7) The fact that the victim's communications with the magistrate concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential.

(e) In addition to the information described by subsection (d), the magistrate shall provide to an alleged victim who participates in a global positioning monitoring system under this section the name and telephone number of an appropriate person employed by a local law enforcement agency who the victim may call to request immediate assistance if the defendant violates a condition of bond imposed under this section.

(f) In determining whether to order a defendant's participation in a global positioning monitoring system under this section, the magistrate shall consider the likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial.

(g) An alleged victim may request that the magistrate terminate the victim's participation in a global positioning monitoring system at any time. The magistrate may not impose sanctions on the victim for requesting termination of the victim's participation in or refusing to participate in a global positioning monitoring system under this section.

(h) If the magistrate determines that the defendant is indigent, the magistrate shall order the defendant to pay any portion of the costs required by subsection (b) for which the defendant has the ability to pay, as determined by the magistrate. Any portion of the costs required by subsection (b) that the defendant is unable to pay shall come from the electronic monitoring indigency fund established pursuant to § 55-10-419, subject to the availability of funds.

(i) The magistrate that imposes a condition described by subsection (b) shall order the entity that operates the global positioning monitoring system to notify the magistrate and the appropriate local law enforcement agency if a defendant violates a condition of bond imposed under this section.

(j) This section shall not limit the authority of the magistrate to impose any other reasonable conditions of bond or enter any orders of protection under other applicable statutes.

(k) The global positioning monitoring of any defendant ordered pursuant to this section shall be provided by the county or municipality in which the court ordering the monitoring is located and shall not be provided by the board of parole.

40-14-311. Minimum compensation payable to court reporters.

The minimum compensation payable to court reporters with at least ten (10) years of experience or court reporters holding the designation licensed court reporter (LCR), as defined in § 20-9-602, issued by the Tennessee board of court reporting is set at the following rates:

- (1) For a full-day appearance, three hundred fifty dollars (\$350); and
- (2) For a half-day appearance, one hundred seventy-five dollars (\$175).

40-14-312. Fees for transcripts — Transcripts for indigent defendants.

The fee rate that may be charged and collected by a court reporter for transcripts is four dollars (\$4.00) per page. If the defendant prays and is granted an appeal and is determined by the trial judge to be without sufficient funds to pay for the preparation of the transcript of the proceedings, the trial judge shall direct the court reporter to furnish the defendant a complete transcript of the proceedings, the fee for which shall be paid by this state out of money appropriated for that purpose. The reporter may require any party requesting a transcript to pay the estimated fee in advance except as to transcripts which are to be paid for by this state.

40-17-125. Subpoena requiring production of documentation and testimony in investigations of offenses of sexual exploitation of a minor.

(a) In any investigation relating to the offenses of sexual exploitation of a minor, as defined in § 39-17-1003, aggravated sexual exploitation of a minor, as defined in § 39-17-1004, or especially aggravated sexual exploitation of a minor, as defined in § 39-17-1005, and upon reasonable cause to believe that an internet service account has been used in the exploitation or attempted exploitation of a minor, the district attorney general or an assistant district attorney general may issue in writing and cause to be served a subpoena requiring the production and testimony described in subsection (b).

(b) Except as provided in subsection (c), a subpoena issued under this section is authorized to require the production of any records or other documentation relevant to the investigation including:

- (1) Name;
- (2) Address;
- (3) Local and long distance telephone connection records, or records of session times and durations;
- (4) Length of service, including start date, and types of service utilized;
- (5) Telephone or instrument number or other subscriber number of identity, including any temporarily assigned network address; and
- (6) Means and source of payment for such service, including any credit card or bank account number.

(c) The provider of electronic communication service or remote computing service shall not disclose the following pursuant to a subpoena but may only do so pursuant to a warrant issued by a court of competent jurisdiction:

- (1) In-transit electronic communications;
- (2) Account memberships related to internet groups, newsgroups, mailing lists or specific areas of interest;
- (3) Account passwords; and

644

(4) Account content to include:

- (A) Electronic mail in any form;
- (B) Address books, contact lists, or buddy lists;
- (C) Financial records;
- (D) Internet proxy content or internet history; and
- (E) Files or other digital documents stored within the account or pursuant to use of the account.

(d) At any time before the return date specified on the subpoena, the person summoned may, in the general sessions court of the county in which the person resides or does business, petition for an order modifying or quashing the subpoena, or a prohibition of disclosure by a court.

(e) A subpoena under this section shall describe the objects required to be produced and shall prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

(f) If no case or proceeding arises from the production of records or other documentation pursuant to this section within a reasonable time after those records or documentation are produced, the district attorney general shall either destroy the records and documentation or return them to the person who produced them.

(g) A subpoena issued under this section may be served by any person who is authorized to serve process under the Tennessee Rules of Civil Procedure and such subpoena shall be served in accordance with such rules.

(h) Each district attorney general shall annually report the following information to the judiciary committee of the senate and the judiciary committee of the house of representatives no later than February 1 for the preceding calendar year:

(1) The number of requests for administrative subpoenas made under this section;

(2) The number of administrative subpoenas issued under this section;

(3) The number of administrative subpoenas issued under this section that were contested;

(4) The number of administrative subpoenas issued under this section that were quashed or modified;

(5) The number of search warrants that were issued as a consequence of the issuance of an administrative subpoena under this section; and

(6) The number of individuals who were prosecuted under §§ 39-17-1003, 39-17-1004, and 39-17-1005 following the issuance of an administrative subpoena under this section.

(i) Except as provided in subsection (h), any information, records or data reported or obtained pursuant to a subpoena issued pursuant to this section shall remain confidential and shall not be further disclosed unless in connection with a criminal case related to the subpoenaed materials.

40-20-114. Disqualification from public office.

(a) A person who has been convicted in this state of an infamous crime, as defined by § 40-20-112, other than one specified in subsection (b), or convicted under the laws of the United States or another state of an offense that would constitute an infamous crime if committed in this state, shall be disqualified from qualifying for, seeking election to or holding a public office in this state, unless and until that person's citizenship rights have been restored by a court

of competent jurisdiction.

(b) Notwithstanding the provisions of subsection (a) to the contrary, a person convicted in this state of an infamous crime, as defined by § 40-20-112, or convicted under the laws of the United States or another state of an offense that would constitute an infamous crime if committed in this state, and the offense was committed while that person is holding an elected public office at the federal level, or in this or any other state or any political subdivision of this or any other state, shall be forever disqualified from qualifying for, seeking or holding any public office in this state or any political subdivision of this state, if the offense was committed in the person's official capacity or involved the duties of the person's office. This subsection (b) shall apply even if the person's citizenship rights have been restored, but shall not be construed as limiting the restoration of any other citizenship rights, including the right of suffrage provided for in § 2-2-139, § 2-19-143, or § 40-29-105.

(c) If a person is holding an elected public office and was convicted of an infamous crime pursuant to the qualifications in subsection (b) that was committed prior to July 1, 2007, the person shall be allowed to remain in office for the remainder of the term, but shall forever be prohibited from qualifying for, seeking or holding any public office in this state or political subdivision of this state after July 1, 2007, or when the term expires or when the person vacates the office, whichever is first.

(d) If a person is holding an elected public office and is convicted of an infamous crime pursuant to the qualifications in subsection (b) that was committed on or after July 1, 2007, the conviction shall be grounds for removal from office in the manner provided by law and the person shall forever be prohibited from qualifying for, seeking or holding any public office in this state or political subdivision of this state after July 1, 2007.

(e) A court shall not accept any plea agreement that allows an elected public official who is charged with an infamous crime involving an offense committed in the person's official capacity or involving the duties of the person's office, to qualify for, seek, or hold public office in this state or any political subdivision of this state at some point in the future. If an elected public official accepts a plea agreement for an offense committed in the person's official capacity or involving the duties of the person's office, the person is prohibited from qualifying for, seeking, or holding public office in this state or any political subdivision of this state at some point in the future after the plea agreement has been agreed to by all parties.

(f) If any provision of this section or the application of this section to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to that end this section is declared to be severable.

40-24-105. Collection of fines, costs and litigation taxes — Installment payment plan — Suspended license — Restricted license — Conversion to civil judgment — Settlement.

(a) Unless discharged by payment or service of imprisonment in default of a fine, a fine may be collected in the same manner as a judgment in a civil action. The trial court may also enforce all orders assessing any fine remaining in default by contempt upon a finding by the court that the defendant has the

present ability to pay the fine and willfully refuses to pay. Costs and litigation taxes due may be collected in the same manner as a judgment in a civil action, but shall not be deemed part of the penalty, and no person shall be imprisoned under this section in default of payment of costs or litigation taxes. The following shall be the allocation formula for moneys paid into court: the first moneys paid in any case shall first be credited toward payment of litigation taxes and once litigation taxes have been paid, the next moneys shall be credited toward payment of costs; then additional moneys shall be credited toward payment of the fine.

(b)(1) Any person who is issued a license under title 55 and who has not paid all litigation taxes, court costs, and fines assessed as a result of disposition of any offense under the criminal laws of this state within one (1) year of the date of the completion of the sentence shall enter into an installment payment plan with the clerk of the court ordering disposition of the offense to make payments on the taxes, costs, and fines owed.

(2) The clerk of the court ordering disposition of an offense shall offer a payment plan, which must be reasonable and based on a person's income and ability to pay, to any person convicted of an offense under the criminal laws of this state who requests to make payments pursuant to an installment payment plan or who is required to enter into an installment payment plan in accordance with subdivision (b)(1). A person may request, and the court clerk shall grant, modifications to the payment plan upon a change in the person's financial circumstances or upon good cause shown. If the request for modification is denied by a deputy clerk, then the person may appeal the denial to the chief clerk. If a request for modification is denied by the chief clerk, then the person may petition the court for modifications to the payment plan based upon a change in the person's financial circumstances or upon good cause shown.

(3)(A) The court clerk shall inform a person who enters into a payment plan pursuant to this subsection (b) that:

(i) Failure to timely make the payments as ordered by the court results in the suspension of the person's license and the issuance of a restricted license; and

(ii) Any default on the payment plan while the person is issued a restricted license results in the revocation of the restricted license and the person's driving privileges as described in subdivision (b)(5).

(B) The court clerk shall notify the department of a person's failure to comply with a payment plan established pursuant to this subsection (b).

(C)(i) Upon notice of the person's failure to comply with the payment plan established pursuant to this subsection (b), the department shall notify the person in writing of the pending suspension of the person's license and instruct the person to contact the appropriate court clerk within the time period described in this subdivision (b)(3)(C).

(ii) A person has thirty (30) days from the date the department sends the notice described in subdivision (b)(3)(C)(i) to reestablish compliance with the payment plan or petition the court clerk or court and demonstrate that the person has, in fact, complied with the court clerk's payment plan.

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with the court clerk's payment plan, then the court clerk shall issue a receipt

or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (b)(3)(C)(ii), then the department shall not suspend the person's license.

(iv) A person who fails to reestablish compliance with the payment plan or demonstrate to the court clerk or court's satisfaction that the person complied with the court clerk's payment plan and whose license is suspended in accordance with this subdivision (b)(3) may apply to the court for the issuance of a restricted license. The court shall order the issuance of a restricted license if the person is otherwise eligible for a driver license.

(D) If the person does not present the receipt or other documentation to the department prior to the expiration of the thirty-day period, then the department shall suspend the person's license. Upon the person presenting a certified copy of the court order and paying the application fee to the department in accordance with subdivision (b)(4)(B), the department shall issue a restricted license in place of the suspended license.

(4)(A) A restricted license issued pursuant to this subsection (b) is valid only for travel necessary for:

- (i) Employment;
- (ii) School;
- (iii) Religious worship;

(iv) Participation in a recovery court, which includes drug courts under the Drug Court Treatment Act of 2003, compiled in title 16, chapter 22; DUI courts; mental health courts; and veterans treatment courts; or

(v) Serious illness of the person or an immediate family member.

(B) The order for the issuance of a restricted license must state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle. The person may obtain a certified copy of the order and, within ten (10) days after the order is issued, present it, together with an application fee of sixty-five dollars (\$65.00), to the department, which shall issue a restricted license embodying the limitations imposed in the order. After proper application and until the restricted license is issued, a certified copy of the order may serve in lieu of a driver license.

(5)(A) If a person who is issued a restricted license fails to comply with a payment plan established pursuant to this subsection (b), the court clerk shall notify the department of the person's failure to comply with the payment plan.

(B)(i) Upon notice of the person's failure to comply with the payment plan, the department shall notify the person in writing of the pending revocation of the person's restricted license and instruct the person to contact the appropriate court clerk within the time period described in this subdivision (b)(5)(B).

(ii) A person has thirty (30) days from the date the department sends the notice described in subdivision (b)(5)(B)(i) to reestablish compliance with the payment plan or petition the court clerk or court and demonstrate that the person has, in fact, complied with the court clerk's payment plan.

(iii) If the person reestablishes compliance with the payment plan or demonstrates to the court clerk or court that the person complied with

the court clerk's payment plan, then the court clerk shall issue a receipt or other documentation to the person. If the person presents the receipt or other documentation to the department prior to the expiration of the thirty-day period described in subdivision (b)(5)(B)(ii), then the department shall not revoke the person's restricted license.

(C) If the person does not present the receipt or other documentation to the department prior to the expiration of the thirty-day period, then the department shall revoke the person's restricted license.

(D) No sooner than six (6) months from the date of revocation, a person whose restricted license is revoked pursuant to this subdivision (b)(5) may apply with the court clerk for a certification that the person is eligible to be reissued a restricted license; provided, that the person must be actively participating in an installment payment plan in accordance with subdivision (b)(2).

(E) Upon the person's application for a certification that the person is eligible to receive a reissued restricted license pursuant to subdivision (b)(5)(D), the court clerk shall certify whether the person is actively participating in a payment plan and request the reissuance of a restricted driver license for the person if the person is otherwise eligible for a driver license. The certification must state with all practicable specificity the necessary times and places of permissible operation of a motor vehicle for purposes described in subdivision (b)(4)(A). The person may obtain a copy of the certification and, within ten (10) days after the certification is issued, present it, together with an application fee of sixty-five dollars (\$65.00), to the department, which shall issue a restricted license embodying the limitations imposed in the certification. After proper application and until the restricted license is issued, a copy of the certification may serve in lieu of a driver license.

(6)(A) Notwithstanding this subsection (b), if a licensee claims an inability to pay taxes, fines, or costs imposed for a disposition of any offense under the criminal laws of this state due to indigency, the court shall offer the person the opportunity to submit proof of the person's financial inability to pay, which may include a signed affidavit of indigency. For purposes of this subdivision (b)(6), the standard for a claim of indigency is the same as for an indigent person, as defined in § 40-14-201.

(B) Upon proof of a person's financial inability to pay, the court shall suspend the person's taxes, fines, and costs. No additional fines or costs accrue against the original taxes, fines, and costs as a result of or during the suspension of the person's taxes, fines, and costs. The court may order the person to reappear before the court for a reevaluation of the person's financial ability or inability to pay the taxes, fines, or costs. If, after the reevaluation, the person:

(i) Is no longer financially unable to pay or secure any portion of the taxes, fines, or costs in accordance with subdivision (b)(6)(A), the court shall reinstate the taxes, fines, and costs and apply subdivisions (b)(2)-(5); or

(ii) Remains financially unable to pay any portion of the taxes, fines, or costs, the court shall extend the suspension of the person's taxes, fines, and costs and may order the person to reappear before the court for a reevaluation of the person's financial ability or inability to pay the fine or cost in accordance with this subdivision (b)(6)(B). The process

described by this subdivision (b)(6)(B) applies until the person fully pays the moneys owed the court or any outstanding taxes, fines, or costs are waived by the court.

(7) Notwithstanding this subsection (b), a person will be issued a restricted license or have the person's license reinstated only if the person is otherwise eligible for a driver license.

(8) The process described by this subsection (b) applies until the person fully pays the moneys owed the court or any outstanding taxes, fines, or costs are waived by the court.

(9) If otherwise eligible for a driver license, any person whose driver license was revoked under this section, prior to July 1, 2019, for nonpayment of litigation taxes, court costs, and fines assessed may apply to the court having original jurisdiction over the offense for an order reinstating the person's license upon entering into an installment payment plan under this subsection (b) or the submittal of proof described in subdivision (b)(6). The person may present a certified copy of the court's order to the department of safety, which shall reissue a driver license at no cost to the person if the person is otherwise eligible for a driver license.

(c) The district attorney general or the county or municipal attorney, as applicable, may, in that person's discretion, and shall, upon order of the court, institute proceedings to collect the fine, costs and litigation taxes as a civil judgment.

(d)(1) Any fine, costs, or litigation taxes remaining in default after the entry of the order assessing the fine, costs, or litigation taxes may be collected by the district attorney general or the criminal or general sessions court clerk in the manner authorized by this section and otherwise by the trial court by contempt upon a finding by the court that the defendant has the present ability to pay the fine and willfully refuses to pay. After a fine, costs, or litigation taxes have been in default for at least six (6) months, the district attorney general or criminal or general sessions court clerk may retain an agent to collect, or institute proceedings to collect, or establish an in-house collection procedure to collect, fines, costs and litigation taxes. If an agent is used, the district attorney general or the criminal or general sessions court clerk shall request the county purchasing agent to utilize normal competitive bidding procedures applicable to the county to select and retain the agent. If the district attorney general and the criminal or general sessions court clerk cannot agree upon who collects the fines, costs and litigation taxes, the presiding judge of the judicial district or a general sessions judge shall make the decision. The district attorney general or criminal or general sessions court clerk may retain up to fifty percent (50%) of the fines, costs and litigation taxes collected pursuant to this subsection (d) in accordance with any in-house collection procedure or, if an agent is used, for the collection agent. The proceeds from any in-house collection shall be treated as other fees of the office. When moneys are paid into court, the allocation formula outlined in subsection (a) shall be followed, except up to fifty percent (50%) may be withheld for in-house collection or, if an agent is used, for the collection agent, with the remainder being allocated according to the formula.

(2) On or after January 1, 2015, if an agent is used, the agent's collection fee shall be added to the total amount owed. The agent's collection fee shall not exceed forty percent (40%) of any amounts actually collected. When

650

moneys are paid into court, the allocation formula outlined in subsection (a) shall be followed, except up to forty percent (40%) may be withheld for the collection agent, with the remainder being allocated according to the formula.

(e)(1) The governing body of any municipality may by ordinance authorize the employment of a collection agency to collect fines and costs assessed by the municipal court where the fines and costs have not been collected within sixty (60) days after they were due. The authorizing ordinance shall include the requirement that the contract between the municipality and the collection agency be in writing.

(2) The collection agency may be paid an amount not exceeding forty percent (40%) of the sums collected as consideration for collecting the fines and costs.

(3) The written contract between the collection agency and the municipality shall include a provision specifying whether the agency may institute an action to collect fines and costs in a judicial proceeding.

(4) Nothing in this subsection (e) shall be interpreted to permit a municipality to employ a collection agency for the collection of unpaid parking tickets in violation of § 6-54-513.

(f) If any fine, costs or litigation taxes assessed against the defendant in a criminal case remain in default when the defendant is released from the sentence imposed, the sentence expires or the criminal court otherwise loses jurisdiction over the defendant, the sentencing judge, clerk or district attorney general may have the amount remaining in default converted to a civil judgment pursuant to the Tennessee Rules of Civil Procedure. The judgment may be enforced as is provided in this section or in any other manner authorized by law for a civil judgment.

(g) After a fine, costs, or litigation taxes have been in default for at least five (5) years, the criminal or general sessions court clerk may, subject to approval by a court of competent jurisdiction, accept a lump-sum partial payment in full settlement of the outstanding balance due on a case. The court shall not approve a settlement unless the amount accepted is equal to or greater than fifty percent (50%) of the combined outstanding balance of all fines, costs, and litigation taxes due on the case. When moneys are paid into court pursuant to this subsection (g), the allocation formula outlined in subsection (a) shall be followed, except the percentage that may be retained by the clerk pursuant to subsection (d) may be withheld, with the remainder being allocated according to the formula.

(h) [Deleted by 2019 amendment.]

(i) As used in this section, "costs" shall include any jail fees or other incarceration costs imposed.

40-30-111. Final disposition of petitions — Compliance reports.

(a) If the court finds that there was such a denial or infringement of the rights of the prisoner as to render the judgment void or voidable, including a finding that trial counsel was ineffective on direct appeal, the court shall vacate and set aside the judgment or order a delayed appeal as provided in this part and shall enter an appropriate order and any supplementary orders that may be necessary and proper. Costs shall be taxed as in criminal cases.

(b) Upon the final disposition of every petition, the court shall enter a final

order, and except where proceedings for delayed appeal are allowed, shall set forth in the order or a written memorandum of the case all grounds presented, and shall state the findings of fact and conclusions of law with regard to each ground.

(c) Where the petitioner has court-appointed counsel, the court may require petitioner's counsel to file a verified statement of dates and times counsel has consulted with petitioner, and this statement shall become a part of the record.

(d) The court shall rule within sixty (60) days of conclusion of the proof. The deadline shall not be extended by agreement, and the deadline may be extended only by order of the court based upon a finding that unforeseeable circumstances render a continuance a manifest necessity. An extension shall not exceed thirty (30) days. Final disposition of a capital case must be made within one (1) year of the filing of the petition. Copies of all orders extending deadlines in capital cases shall be sent to the administrative office of the courts. The administrative office of the courts shall report annually to the general assembly on the compliance by the courts within the time limits established for capital cases and the reason for noncompliance, if any.

(e)(1) By December 1, 2009, and every December 1 thereafter, the administrative office of the courts shall complete the compliance report required by subsection (d) and submit the report to the chief clerks of the house of representatives and the senate and the chairs of the judiciary committee of the house of representatives and the judiciary committee of the senate.

(2) The administrative office of the courts, in consultation with the district attorneys general conference, the office of the post-conviction defender and the district public defenders conference, shall review the annual compliance report to determine if the time period for the final disposition of post-conviction petitions in capital cases set out in subsection (d) is a realistic time period for providing a thorough and meaningful review of the claims and making a final disposition of them. If it is determined that the statutory period for final disposition of the petitions is not realistic, the administrative office of the courts shall determine a realistic and attainable time period and submit it to the legislature as provided in subdivision (e)(1).

(3) The review and determination of a realistic time period for the conclusion of post-convictions petitions required by subdivision (e)(2) shall be made by December 1, 2009, and every December 1 thereafter.

40-31-107. Central administrator and information agent — Designation — Report.

(a) The governor is empowered to designate the officer who will serve as central administrator of, and information agent for, the agreement on detainees, pursuant to article VII of § 40-31-101.

(b) The officer designated shall make a written report to the speakers of the senate and the house of representatives, and the chairs of the judiciary committee of the senate and the judiciary committee of the house of representatives, at least once each year. This report shall be made no later than February 1. The report shall advise the speakers and committee chairs on the number of participants in the compact.

40-32-101. Destruction or release of records.

(a)(1)(A) All public records of a person who has been charged with a misdemeanor or a felony shall, upon petition by that person to the court having jurisdiction in the previous action, be removed and destroyed without cost to the person, if:

- (i) The charge has been dismissed;
- (ii) A no true bill was returned by a grand jury; or
- (iii) The person was arrested and released without being charged.

(B) A person applying for the expunction of records because the charge or warrant was dismissed in any court as a result of the successful completion of a pretrial diversion program pursuant to §§ 40-15-102 — 40-15-107, shall be charged the appropriate court clerk's fee pursuant to § 8-21-401 for destroying such records.

(C)(i) If a person seeking expunction pursuant to subdivision (a)(1)(A) was arrested or charged due to a case of mistaken identity, the person may provide evidence of the relevant circumstances in the petition and request that the court order the expunction to be expedited. If the court finds that the person was arrested or charged due to mistaken identity, the court shall order the Tennessee bureau of investigation and any other entity that performs expunction to expunge the records of the person in an expedited manner.

(ii) As used in this subdivision (a)(1)(C), "mistaken identity" means during the investigation of a criminal offense, a person has been arrested, charged, or indicted for a criminal act and subsequent investigation has revealed that the person arrested was not the individual the arresting officer believed the person to be.

(D) Notwithstanding subdivision (a)(1)(B) or (a)(6), the records of a person who successfully completes a pretrial diversion program pursuant to §§ 40-15-102 — 40-15-107, or a judicial diversion program pursuant to § 40-35-313, shall not be expunged pursuant to this section, if the offense for which the person was diverted was a sexual offense as defined by § 40-39-202, or a violent sexual offense as defined by § 40-39-202.

(E) Except as provided in subsection (j), a person is not entitled to the expunction of such person's records if:

(i) The person is charged with an offense, is not convicted of the charged offense, but is convicted of an offense relating to the same criminal conduct or episode as the charged offense, including a lesser included offense; provided, however, any moving or nonmoving traffic offense shall not be considered an offense as used in this subdivision (a)(1)(E); or

(ii) The person is charged with multiple offenses or multiple counts in a single indictment and is convicted of:

(a) One (1) or more of the charged offenses or counts in the indictment; or

(b) An offense relating to the same criminal conduct or episode as one (1) of the offenses charged in the indictment, including a lesser included offense.

(F) Upon a verdict of not guilty being returned, whether by a judge following a bench trial or by a jury, on all charges for which the defendant was accused, the judge shall inquire of the person acquitted whether such

person requests that all public records associated with the charges for which such person was acquitted be removed and destroyed without cost to the person and without the requirement that the person petition for destruction of such records. If the person requests that the public records related to such charges be removed and destroyed, the court shall so order. If the person acquitted does not request that such records be destroyed at the time the judge inquires pursuant to this subdivision (a)(1)(F), but subsequently requests that such records be destroyed, the person shall be required to follow the petition procedure set out in this section.

(2) All public records of a person required to post bond under § 38-3-109 or § 38-4-106 [repealed] shall be removed and destroyed as required by this chapter upon the expiration of any bond required, if no surety on the bond is required to fulfill the obligations of the bond.

(3) Upon petition by a defendant in the court that entered a nolle prosequi in the defendant's case, the court shall order all public records expunged.

(4) For purposes of this section, "court" includes any juvenile court exercising juvenile court jurisdiction over an adult who is charged with an offense that was committed when the person was eighteen (18) years of age or older.

(5) All public records concerning an order of protection authorized by title 36, chapter 3, part 6, which was successfully defended and denied by the court shall, upon petition by that person to the court denying the order, be removed and destroyed without cost to the person.

(6) Except as provided in subsection (f), it is the intent of this section that a person is entitled to the expunction of public records in a criminal case only if the person successfully completes a pretrial diversion program pursuant to §§ 40-15-102 — 40-15-107 or a judicial diversion program pursuant to § 40-35-313, the charges against such person are dismissed, or the person is entitled to have all public records removed and destroyed by reason of one (1) of the results specified in this section.

(b)(1) "Public records," for the purpose of expunction only, does not include arrest histories, investigative reports, intelligence information of law enforcement agencies, or files of district attorneys general that are maintained as confidential records for law enforcement purposes and are not open for inspection by members of the public and shall also not include records of the department of children's services or department of human services that are confidential under state or federal law and that are required to be maintained by state or federal law for audit or other purposes. Whenever an order of expunction issues under this section directed to the department of children's services or department of human services, the department shall notify the defendant if there are records required to be maintained as directed above and the basis therefor. The department shall delete identifying information in these records whenever permitted by state or federal law. These records are to be expunged whenever their maintenance is no longer required by state or federal law.

(2) "Public records", for the purpose of expunction only, does not include appellate court records or appellate court opinions.

(c)(1) Release of confidential records or information contained therein other than to law enforcement agencies for law enforcement purposes shall be a Class A misdemeanor.

(2) This section shall not be construed to deny access to any record to the comptroller of the treasury or the comptroller of the treasury's agent for

purposes of audit investigation; the comptroller of the treasury or the comptroller of the treasury's agent having this access shall protect the confidential nature of the records that are not otherwise public under other statutes.

(3) Release of arrest histories of a defendant or potential witness in a criminal proceeding to an attorney of record in the proceeding shall be made to the attorney upon request.

(d)(1) Any court ordering the expunction of a person's public records of a criminal offense, including orders issued as a result of the successful completion of a diversion program pursuant to §§ 40-15-105 and 40-15-106 or judicial diversion program, shall send or cause to be sent a copy of the expunction order to the Tennessee bureau of investigation within thirty (30) days from the date of the expunction order for entry into its expunged offender and pretrial diversion database. The order shall contain the name of the person seeking expunction, the person's date of birth and social security number, the offense that was dismissed, the date and cause of the dismissal and the date the order of expunction is entered.

(2) [Deleted by 2019 amendment.]

(e) It is the intent of the general assembly that no fee ever be charged a person who is petitioning a court for expunction of records because:

(1) The charge against the person was dismissed for a reason other than the successful completion of a diversion program pursuant to §§ 40-15-102 — 40-15-106 or § 40-35-313;

(2) A no true bill was returned by a grand jury;

(3) A verdict of not guilty was returned, whether by the judge following a bench trial or by a jury; or

(4) The person was arrested and released without being charged.

(f)(1) All public records of a person who has been charged and convicted with a misdemeanor or felony while protesting or challenging a state law or municipal ordinance whose purpose was to maintain or enforce racial segregation or racial discrimination shall, upon petition by that person to the court having jurisdiction in the previous action, be removed and destroyed without cost to the person, if:

(A) The charge has been dismissed;

(B) A no true bill was returned by a grand jury;

(C) A verdict of not guilty was returned, whether by the judge following a bench trial or by a jury;

(D) The person was arrested and released, without being charged; or

(E)(i) Thirty-seven (37) years or more have elapsed since the date of conviction for the offense being expunged and the petitioner has not been convicted of any other offense, excluding minor traffic violations, during that period of time;

(ii) Any period of supervision due to conviction has been completed;

(iii) The offense was a misdemeanor, Class C, D or E felony not otherwise excluded pursuant to subdivision (f)(1)(E)(iv), or, if committed prior to November 1, 1989, would be an included Class C, D, or E felony if committed after November 1, 1989;

(iv) The offense was not a Class A or Class B felony or a Class C felony described in § 40-15-105(a)(1)(B)(iii), a sexual offense described in § 40-15-105(a)(1)(B)(ii), or an offense prohibited by title 55, chapter 10, part 4, vehicular assault as prohibited by § 39-13-106, or if committed prior to November 1, 1989, would not be an excluded offense if commit-

ted after November 1, 1989; and

(v) The district attorney general is served a copy of the petition for expunction by certified mail, return receipt requested, and the district attorney general does not file an objection with the court within twenty (20) calendar days of receipt of the petition.

(2) All public records of a person required to post bond under § 38-3-109 shall be removed and destroyed as required by this section upon the expiration of any bond required, if no surety on the bond is required to fulfill the obligations of the bond.

(3) Upon petition by a defendant in the court that entered a nolle prosequi in the defendant's case, the court shall order all public records expunged.

(4) If the person charged or convicted is deceased, the petition may be filed by a person who is able to establish legal authority to act on the behalf of the deceased person.

(5) Notwithstanding any law to the contrary, upon request of the petitioner, records or documents subject to the destruction requirement of this subsection (f) that are utilized exclusively for education purposes and are displayed in public museums, libraries, and buildings are exempt from the destruction requirement.

(g)(1) For purpose of this subsection (g), "eligible petitioner" means:

(A) A person who was convicted of one of the following Class E felonies and sentenced to imprisonment for a term of three (3) years or less for an offense committed on or after November 1, 1989:

- (i) Section 39-11-411 — Accessory after the fact;
- (ii) Section 39-13-306 — Custodial interference where person not voluntarily returned by defendant;
- (iii) Section 39-13-604(c)(2) — Knowing dissemination of illegally recorded cellular communication;
- (iv) Section 39-14-105(a)(2) — Theft;
- (v) Section 39-14-114(c) — Forgery;
- (vi) Section 39-14-115 — Criminal simulation;
- (vii) Section 39-14-116(c) — Hindering secured creditors;
- (viii) Section 39-14-117(b) — Fraud in insolvency;
- (ix) Section 39-14-118 — Fraudulent use of credit card or debit card;
- (x) Section 39-14-121 — Worthless checks;
- (xi) Section 39-14-130 — Destruction of valuable papers;
- (xii) Section 39-14-131 — Destruction or concealment of will;
- (xiii) Section 39-14-133 — Fraudulent or false insurance claim;
- (xiv) Section 39-14-137(b) — Fraudulent qualifying for set aside programs;
- (xv) Section 39-14-138 — Theft of trade secrets;
- (xvi) Section 39-14-139 — Sale of recorded live performances without consent;
- (xvii) Section 39-14-143 — Unauthorized solicitation for police, judicial, or safety associations;
- (xviii) Section 39-14-147(f) — Fraudulent transfer of motor vehicle with value of less than \$20,000;
- (xix) Section 39-14-149 — Communication theft (fine only);
- (xx) Section 39-14-154 — Home improvement fraud;
- (xxi) Section 39-14-402 — Burglary of an auto;
- (xxii) Section 39-14-408 — Vandalism;

- (xxiii) Section 39-14-411 — Utility service interruption or property damage;
- (xxiv) Section 39-14-505 — Aggravated criminal littering (2nd and 3rd offenses involving certain weight or volume);
- (xxv) Section 39-14-602 — Violation of Tennessee Personal and Commercial Computer Act;
- (xxvi) Section 39-14-603 — Unsolicited bulk electronic mail;
- (xxvii) Section 39-16-201 — Taking telecommunication device into penal institution;
- (xxviii) Section 39-16-302 — Impersonation of licensed professional;
- (xxix) Section 39-16-603 — Evading arrest in motor vehicle where no risk to bystanders;
- (xxx) Section 39-16-609(e) — Failure to appear (felony);
- (xxxi) Section 39-17-106 — Gifts of adulterated candy or food;
- (xxxii) Section 39-17-417(f) — Manufacture, delivery, sale, or possession of Schedule V drug (fine not greater than \$5,000);
- (xxxiii) Section 39-17-417(g)(1) — Manufacture, delivery, sale, or possession of not less than one-half ounce ($\frac{1}{2}$ oz.) and not more than ten pounds (10 lbs.) of Schedule VI drug marijuana (fine not greater than \$2,500);
- (xxxiv) Section 39-17-417(h) — Manufacture, delivery, sale or possession of Schedule VII drug (fine not greater than \$1,000);
- (xxxv) Section 39-17-418(e) — Simple possession or casual exchange (3rd offense);
- (xxxvi) Section 39-17-422(c) — Selling glue for unlawful purpose;
- (xxxvii) Section 39-17-423(c) — Counterfeit controlled substance;
- (xxxviii) Section 39-17-425(b)(1), (2), (3) — Unlawful drug paraphernalia uses and activities;
- (B) Except as provided in this subdivision (g)(1)(B), a person who was convicted of a misdemeanor offense committed on or after November 1, 1989. Misdemeanors excluded from consideration are:
 - (i) Section 39-13-101(a)(1) and (2) — Assault;
 - (ii) Section 39-13-102 — Aggravated assault of public employee;
 - (iii) Section 39-13-111 — Domestic assault;
 - (iv) Section 39-13-113(g) — Violation of protective or restraining order;
 - (v) Section 39-13-113(h) — Possession of firearm while order of protection in effect;
 - (vi) Section 39-13-511 — Public indecency 3rd or subsequent offense;
 - (vii) Section 39-13-511 — Indecent exposure (victim under 13 years of age) or by person in penal institution exposing to a guard;
 - (viii) Section 39-13-526(b)(1) and (2) — Violation of community supervision by sex offender not constituting offense or constituting misdemeanor;
 - (ix) Section 39-13-528 — Soliciting minor to engage in Class E sexual offense;
 - (x) Section 39-13-509 — Unlawful sexual contact by authority figure;
 - (xi) Section 39-14-118 — Fraudulent use of credit/debit card (up to \$500);
 - (xii) Section 39-14-304 — Reckless burning;
 - (xiii) Section 39-14-406 — Aggravated criminal trespass of a habitation, hospital, or on the campus of any public or private school, or on

railroad property;

(xiv) Section 39-15-201(b)(3) — Coercion — abortion;

(xv) Section 39-15-210 — Third or subsequent violation of Child Rape Protection Act of 2006;

(xvi) Section 39-15-401(a) — Child abuse (where child is between ages 7-17);

(xvii) Section 39-15-401(b) — Child neglect and endangerment (where child is between ages 7-13);

(xviii) Section 39-15-404 — Enticing a child to purchase intoxicating liquor — purchasing alcoholic beverage for child;

(xix) Section 39-15-404 — Allowing person ages 18-21 to consume alcohol on person's premises;

(xx) Section 39-15-414 — Harboring or hiding a runaway child;

(xxi) Section 39-17-315 — Stalking;

(xxii) Section 39-17-431 — Unlawful dispensing of immediate methamphetamine precursor, sale of meth precursor to person on methamphetamine registry or purchase by someone on registry, possess meth precursor with intent to sell to another for unlawful use, purchase meth precursor for another for unlawful use, purchase meth precursor at different times and places to circumvent limits, and use false ID to purchase meth precursor for purpose of circumventing limits;

(xxiii) Section 39-17-437 — Using substance or device to falsify drug test results and selling synthetic urine;

(xxiv) Section 39-17-438 — Possession of the hallucinogenic plant *Salvia Divinorum* or the synthetic cannabinoids;

(xxv) Section 39-17-452 — Sale or possession of synthetic derivatives or analogues of methcathinone;

(xxvi) Section 39-17-902(a) — Importing, preparing, distributing, processing, or appearing in obscene material or Class A misdemeanors;

(xxvii) Section 39-17-907 — Unlawful exhibition of obscene material;

(xxviii) Section 39-17-911 — Sale or loan to minors of harmful materials;

(xxix) Section 39-17-918 — Unlawful massage or exposure of erogenous areas;

(xxx) Section 39-17-1307(f)(1)(A) — Possession of firearm after being convicted of misdemeanor crime of domestic violence;

(xxxi) Section 39-17-1307(f)(1)(B) — Possession of firearm while order of protection is in effect;

(xxxii) Section 39-17-1307(f)(1)(C) — Possession of firearm while prohibited by state or federal law;

(xxxiii) Section 39-17-1312 — Failure of adult to report juvenile carrying gun in school;

(xxxiv) Section 39-17-1320(a) — Nonparent providing handgun to a juvenile;

(xxxv) Section 39-17-1352 — Failure to surrender handgun carry permit upon suspension;

(xxxvi) Section 39-17-1363 — Violent felon owning or possessing vicious dog;

(xxxvii) Section 39-13-101(a)(3) — Assault (offensive or provocative physical contact);

(xxxviii) Section 39-13-511(a) — Public indecency — first or second

offense (punishable by \$500 fine only);

(xxxix) Section 39-13-511(b)(2) — Indecent exposure (victim 13 years old or older);

(xl) Section 39-15-412(b) — Disseminating smoking paraphernalia to minor after 3 prior violations;

(xli) Section 39-16-404 — Misuse of official information by public servant;

(xlii) Section 39-17-317 — Disorderly conduct at funerals;

(xliii) Section 39-17-715 — Possession of or consuming alcoholic beverages on K-12 school premises;

(xliv) Section 39-17-914 — Display for sale or rental of material harmful to minors; and

(xlv) Section 55-10-401 — Driving under the influence of an intoxicant;

(C) A person who was convicted of a felony or misdemeanor committed prior to November 1, 1989, if:

(i) The person was sentenced to a determinate sentence of three (3) years or less;

(ii) The person was sentenced to an indeterminate sentence for which the person served three (3) years or less;

(iii) The person has never had a previous conviction expunged as the result of the successful completion of a diversion program pursuant to §§ 40-15-102 — 40-15-106 or § 40-35-313; and

(iv) The offense for which the person was convicted:

(a) Did not have as an element the use, attempted use, or threatened use of physical force against the person of another;

(b) Did not involve, by its nature, a substantial risk that physical force against the person of another would be used in the course of committing the offense;

(c) Did not involve the use or possession of a deadly weapon;

(d) Was not a sex offense for which the offender is required to register as a sexual offender or violent sexual offender under chapter 39, part 2 of this title; or any sex offense involving a minor;

(e) Did not result in the death, serious bodily injury or bodily injury to a person;

(f) Did not involve the use of alcohol or drugs and a motor vehicle;

(g) Did not involve the sale or distribution of a Schedule I, II, III, or IV controlled substance;

(h) Did not involve a minor as the victim of the offense; or

(i) Did not result in causing the victim or victims to sustain a loss of fifty thousand dollars (\$50,000) or more;

(D) A person who was convicted of drug fraud pursuant to § 53-11-402(a)(3) and sentenced to imprisonment for a term of four (4) years or less for an offense committed on or after November 1, 1989; provided, however, that at least ten (10) years have elapsed since completion of the sentence imposed for the offense; or

(E) A person who was convicted of more than one (1) of the offenses listed in this subdivision (g)(1), if the conduct upon which each conviction is based occurred contemporaneously, occurred at the same location, represented a single continuous criminal episode with a single criminal intent, and all such convictions are eligible for expunction under this part.

The offenses of a person who is an eligible petitioner under this subdivision (g)(1)(E) shall be considered a single offense for the purposes of this section so that the person is eligible for expunction consideration if all other requirements are met.

(2) Notwithstanding the provisions of this section, effective July 1, 2012, an eligible petitioner may file a petition for expunction of that person's public records involving a criminal offense if:

(A) Except as provided in subdivision (g)(1)(E), at the time of filing, the person has never been convicted of any criminal offense, including federal offenses and offenses in other states, other than the offense committed for which the petition for expunction is filed; provided, however, that any moving or non-moving traffic offense shall not be considered a criminal offense as used in this subdivision (g)(2)(A);

(B) At the time of the filing of the petition for expunction at least five (5) years have elapsed since the completion of the sentence imposed for the offense;

(C) The person has fulfilled all the requirements of the sentence imposed by the court in which the individual was convicted of the offense, including:

- (i) Payment of all fines, restitution, court costs and other assessments;
- (ii) Completion of any term of imprisonment or probation;
- (iii) Meeting all conditions of supervised or unsupervised release; and
- (iv) If so required by the conditions of the sentence imposed, remaining free from dependency on or abuse of alcohol or a controlled substance or other prohibited substance for a period of not less than one (1) year.

(3) A person seeking expunction shall petition the court in which the petitioner was convicted of the offense sought to be expunged is filed. Upon filing of the petition, the clerk shall serve the petition on the district attorney general for that judicial district. Not later than sixty (60) days after service of the petition, the district attorney may submit recommendations to the court and provide a copy of such recommendations to the petitioner.

(4) Both the petitioner and the district attorney general may file evidence with the court relating to the petition.

(5) In making a decision on the petition, the court shall consider all evidence and weigh the interests of the petitioner against the best interests of justice and public safety.

(6) If the court denies the petition, the petitioner may not file another such petition until at least two (2) years from the date of the denial.

(7) The district attorneys general conference shall, by September 1, 2012, create a simple form to enable a lay person to petition the court for expunction under this subsection (g).

(8) The petition and proposed order shall be prepared by the office of the district attorney general and given to the petitioner to be filed with the clerk of the court. A petitioner shall be entitled to a copy of the order of expunction and such copy shall be sufficient proof that the person named in the order is no longer under any disability, disqualification or other adverse consequence resulting from the expunged conviction.

(9) [Deleted by 2019 amendment.]

(10) There is created within the district attorneys general conference a district attorneys expunction fund. Moneys in the district attorneys expunc-

tion fund shall be used to defray the expense incurred for the required record search and preparation of the petition and the proposed order of expunction under this subsection (g) or subsection (h). Any remaining moneys in the district attorneys expunction fund may be used by the district attorneys generals for law enforcement purposes, including, but not limited to, the hiring of expert witnesses, training, matching federal grants directly related to prosecutorial duties, the purchase of equipment and supplies necessary to carry out prosecutorial functions, the expenses of travel in the performance of official duties of the office, provided all reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter, salaries and salary supplements, which may only be paid through the district attorneys general conference for support staff. Such payments shall be subject to the limitation of § 40-3-209(b) on the use of any funds to supplement the salary of any assistant district attorney. Moneys in the district attorneys expunction fund shall not revert to the general fund but shall be carried forward into the subsequent fiscal year. All funds in the district attorneys expunction fund shall be subject to annual audit by the comptroller of the treasury.

(11) There is created within the state treasury a public defenders expunction fund. Moneys in the public defenders expunction fund shall be used to defray the expense incurred by conducting the educational activities required pursuant to this subsection (g). Subject to annual appropriation, any remaining moneys in the public defenders expunction fund may be used in furtherance of the services and programs provided by public defenders for each judicial district. Moneys in the public defenders expunction fund shall not revert to the general fund but shall be carried forward into the subsequent fiscal year.

(12)(A) Notwithstanding any other law to the contrary, an order of expunction granted pursuant to this subsection (g) or subsection (h) entitles the petitioner to have all public records of the expunged conviction destroyed in the manner set forth in this section.

(B) Additionally, such an expunction has the legal effect of restoring the petitioner, in the contemplation of the law, to the same status occupied before the arrest, indictment, information, trial and conviction. Once the expunction order is granted, no direct or indirect collateral consequences that are generally or specifically attendant to the petitioner's conviction by any law shall be imposed or continued.

(C) A petitioner with respect to whom an order has been granted under this subsection (g) or subsection (h) shall not be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge the arrest, indictment, information, trial or conviction in response to any inquiry made of the petitioner for any purpose.

(D) Expunction under this subsection (g) or subsection (h) means, in contemplation of law, the conviction for the expunged offense never occurred and the person shall not suffer any adverse effects or direct disabilities by virtue of the criminal offense that was expunged.

(E) Notwithstanding § 39-17-1307(b)(1)(B) and (c), a petitioner whose petition is granted pursuant to this subsection (g) or subsection (h), and who is otherwise eligible under state or federal law to possess a firearm, shall be eligible to purchase a firearm pursuant to § 39-16-1316 and apply

for and be granted a handgun carry permit pursuant to § 39-17-1351.

(13) The clerk of the court maintaining records expunged pursuant to this subsection (g) or subsection (h) shall keep such records confidential. These records shall not be public and can only be used to enhance a sentence if the petitioner is subsequently charged and convicted of another crime. This confidential record is only accessible to the district attorney general, the defendant, the defendant's attorney and the circuit or criminal court judge.

(14) [Deleted by 2019 amendment.]

(h)(1) For purposes of this subsection (h), "eligible petitioner" means a person who was convicted of a nonviolent crime after January 1, 1980, if the person:

(A) Petitioned the court in which the petitioner was convicted of the offense and the judge finds that the offense was a nonviolent crime;

(B) Petitioned for and received a positive vote from the board of parole to receive a pardon; and

(C) Received a pardon by the governor.

(2) Notwithstanding the provisions of this section, effective July 1, 2013, an eligible petitioner under subdivision (h)(1) may file a petition for expunction of that person's public records involving the crime. The procedures in subdivisions (g)(3)-(6), (8), (12) and (13) will apply to a petitioner under this subsection (h).

(i) A person applying for expunction of records pursuant to this section or § 40-35-313 shall be charged the appropriate court clerk's fee pursuant to § 8-21-401 unless the person is entitled to have such records removed and destroyed without cost to the person.

(j) A person who is ineligible for expunction of the person's records pursuant to subdivision (a)(1)(E) shall, upon petition by that person to the court having jurisdiction in the previous action, be entitled to removal of public records from electronic databases, as provided in this subsection (j), relating to the person's arrest, indictment, charging instrument, or disposition for any charges other than the offense for which the person was convicted. The public records shall be removed from the relevant electronic databases of the national crime information center system and similar state databases, and the person shall be entered into the Tennessee bureau of investigation's expunged criminal offender and pretrial diversion database with regard to the offenses removed pursuant to this subsection (j). The public records shall also be removed from any public electronic database maintained by a court clerk. Nothing in this subsection (j) shall require court clerks to expunge records relating to an offense for which the person was convicted. Court clerks shall not be liable for any errors or omissions relating to the removal and destruction of records under this section.

(k)(1) Notwithstanding subsection (g), effective July 1, 2017, for purposes of this subsection (k), an "eligible petitioner" means a person who was convicted of no more than two (2) offenses and:

(A) Each of the offenses for which the petitioner seeks expunction are offenses that are eligible for expunction under subsection (g);

(B) The offenses were:

(i) Two (2) misdemeanors; or

(ii) One (1) felony and one (1) misdemeanor;

(C)(i) At the time of the filing of the petition for expunction at least five (5) years have elapsed since the completion of the sentence imposed for

662

the most recent offense; and

(ii) If one (1) of the offenses was drug fraud pursuant to § 53-11-402(a)(3), at the time of the filing of the petition for expunction at least ten (10) years have elapsed since the completion of the sentence imposed for that offense; and

(D) The person has fulfilled all the requirements of the sentences imposed by the court for each offense the petitioner is seeking to expunge, including:

(i) Payment of all fines, restitution, court costs, and other assessments for each offense;

(ii) Completion of any term of imprisonment or probation for each offense;

(iii) Meeting all conditions of supervised or unsupervised release for each offense; and

(iv) Remaining free from dependency on or abuse of alcohol or a controlled substance or other prohibited substance for a period of not less than one (1) year, if so required by the conditions of any of the sentences imposed.

(2) A person may petition for expunction of two (2) offenses under this subsection (k) only one (1) time.

(3) [Deleted by 2019 amendment.]

(4) Subdivisions (g)(3)-(6), (8), (12), and (13) shall apply to a petition filed under this subsection (k).

40-32-105. Expungement of person's public records involving offenses related to status as victim of human trafficking.

(a) Notwithstanding § 40-32-101, a person may file a petition for expunction of that person's public records involving offenses related to the person's status as a victim of human trafficking.

(b) In order to be eligible for expunction pursuant to this section, the petitioner must meet the following requirements:

(1) At the time of the filing of the petition for expunction at least one (1) year has elapsed since the completion of the sentence imposed for the petitioner's most recent criminal offense;

(2) The petitioner has fulfilled the following requirements of the sentence imposed by any court in which the individual was convicted of an offense:

(A) Completion of any term of imprisonment or probation;

(B) Meeting all conditions of supervised or unsupervised release; and

(C) If so required by the conditions of any of the sentences imposed, remaining free from dependency on or abuse of alcohol or a controlled substance or other prohibited substance for a period of not less than one (1) year;

(3) The petitioner has not been convicted of any criminal offense during the one (1) year prior to filing the petition and is not subject to any pending criminal charges;

(4) At least one (1) of the convictions to be expunged was for prostitution, as prohibited by § 39-13-513;

(5) The petitioner has not had public records previously expunged pursuant to this section;

(6) The convictions to be expunged:

(A) Did not have as an element the use, attempted use, or threatened use of physical force against the person of another;

(B) Did not involve the use or possession of a deadly weapon; and

(C) Are individually eligible for expunction under § 40-32-101(g); and

(7) Each of the convictions to be expunged resulted from the petitioner's status as a victim of human trafficking, under § 39-13-314. The petitioner may provide evidence of this requirement by testimony or affidavit. This subdivision (b)(7) does not require a conviction for an offense of which the petitioner was the victim. Any offense to be expunged must have occurred on or after the date on which the petitioner became a victim of human trafficking, as determined by the court.

(c) A person seeking expunction pursuant to this section must petition the court in which the person was most recently convicted of an offense. Upon filing of the petition, the clerk must serve the petition on the district attorneys general for each jurisdiction in which the petitioner has been convicted of an offense that is to be expunged. Not later than sixty (60) days after service of the petition, the district attorneys general may submit recommendations to the court and provide a copy of such recommendations to the petitioner.

(d) Both the petitioner and the district attorneys general may file evidence with the court relating to the petition. If necessary, the court may schedule a hearing for the purpose of taking testimony from the petitioner and any other interested persons. In making a decision on the petition, the court shall consider all evidence and weigh the interests of the petitioner against the best interests of justice and public safety.

(e) If the court determines that the petitioner meets the requirements of subsection (b) and that the expunction is in the best interests of justice and public safety, the court shall order the person's records involving convictions resulting from the person's status as a victim of human trafficking expunged.

(f) If the court denies the petition, the petitioner may not file another such petition until at least two (2) years from the date of the denial.

(g) The district attorneys general conference shall create, by September 1, 2019, a simple form to enable a lay person to petition the court for expunction under this section.

(h) The petition and proposed order must be prepared by the office of the district attorney general and given to the petitioner to be filed with the clerk of the court. A petitioner is entitled to a copy of the order of expunction and such copy is sufficient proof that the person named in the order is no longer under any disability, disqualification, or other adverse consequence resulting from the expunged convictions.

(i)(1) Notwithstanding any other law to the contrary, an order of expunction granted pursuant to this section entitles the petitioner to have all public records of the expunged convictions destroyed in the manner set forth in this section.

(2) An expunction granted pursuant to this section has the legal effect of restoring the petitioner, in the contemplation of the law, to the same status occupied before the arrest, indictment, information, trial, and conviction for the expunged offenses. Once the expunction order is granted, no direct or indirect collateral consequences that are generally or specifically attendant to the petitioner's conviction by any law shall be imposed or continued.

(3) A petitioner with respect to whom an order has been granted under this section is not guilty of perjury or otherwise giving a false statement by

reason of the person's failure to recite or acknowledge the arrest, indictment, information, trial, or conviction in response to any inquiry made of the petitioner for any purpose.

(4) As used in this section, expunction means, in contemplation of law, the conviction for the expunged offenses never occurred and the person shall not suffer any adverse effects or direct disabilities by virtue of the criminal offenses that were expunged.

(5) Notwithstanding § 39-17-1307(b)(1)(B) and (c), a petitioner whose petition is granted pursuant to this section, and who is otherwise eligible under state or federal law to possess a firearm, is eligible to purchase a firearm pursuant to § 39-17-1316 and apply for and be granted a handgun carry permit pursuant to § 39-17-1351.

(j) The clerk of the court maintaining records expunged pursuant to this section shall keep such records confidential. The records are not public and may only be used to enhance a sentence if the petitioner is subsequently charged and convicted of another crime. This confidential record is only accessible to the district attorney general, the defendant, the defendant's attorney, and the circuit or criminal court judge.

(k) Upon filing the petition, the petitioner shall pay the clerk of court a fee, as described in § 40-32-101(g)(9) [repealed].

40-33-216. Annual seizure report by department.

(a) By March 1 of each year, the department of safety shall report to the speakers of the senate and the house of representatives and the chairs of the judiciary committee of the senate and the judiciary committee of the house of representatives, a report detailing, for the previous calendar year:

- (1) The total number of seizure cases opened by the department;
- (2) The number of seizure cases where an arrest was made;
- (3) The total number of cases resulting in forfeiture;
- (4) The types of property seized under this part and the totals of each type;
- (5) The amount of currency seized;
- (6) The amount of currency forfeited;
- (7) The total number of cases which resulted in a default by the property owner;
- (8) The total amount of currency forfeited as a result of default;
- (9) The total number of cases which resulted in a settlement;
- (10) The total amount of currency forfeited as a result of settlement;
- (11) The total amount of currency returned to the property owners as a result of settlement;
- (12) The total number of cases resulting in a hearing;
- (13) The total number of hearings resulting in forfeiture of assets;
- (14) The total amount of currency forfeited as a result of disposition by hearing;
- (15) The total amount of currency returned to the property owners as a result of a disposition by hearing; and
- (16) How proceeds derived from forfeited assets are used by the department.

(b) The department shall include each category of information for the department as a whole and separately for each individual law enforcement agency that opened a forfeiture proceeding with the department in the

previous calendar year.

(c) The information reported by the department in subdivision (a)(16) and to the department in § 40-33-211(a)(2) shall be made accessible to the public on the department's website through a prominent link provided on the home page.

40-34-107. Report to state and local government committees.

(a) The commissioner of correction shall prepare and transmit monthly a report to the state and local government committee of the senate and the committee of the house of representatives having oversight over corrections. The report shall provide details about each sentencing contract entered into after December 11, 1985, pursuant to the authority granted in §§ 40-28-115, 40-28-116, 40-34-103 and 40-35-501. The report shall not allow the identification of individual persons, but shall provide the following for each person released:

- (1) The offense and length of sentence originally received;
- (2) The amount of time served or to be served under the terms of the contract;
- (3) The amount of sentence reduction provided if the contract is fulfilled; and
- (4) The obligations of the inmate both prior to and after release.

(b) The commissioner shall also report monthly to the committees on the following:

- (1) The number of sentencing contracts revoked since the last reporting period and the reasons for the revocations;
- (2) The number of sentencing contracts completed successfully since the last reporting period; and
- (3) Any other information the committees may request.

43-1-601. Creation.

There is created and established the Tennessee agricultural hall of fame, to be created, established, and governed as provided by this part.

43-1-701. Establishment — Source of fund — Accounting — Interest — Investment — Expenditures.

(a) There is established within the general fund a special agency account to be known as the Tennessee agricultural regulatory fund, referred to in this part as "the fund."

(b) Notwithstanding any law to the contrary, there shall be deposited in the fund all moneys collected pursuant to the following:

- (1) The Tennessee Plant Pest Act, compiled in chapter 6, part 1, of this title;
- (2) The Tennessee Insecticide, Fungicide, and Rodenticide Act, compiled in chapter 8, parts 1 and 2 of this title;
- (3) Chapter 8, part 3, of this title, relative to the aerial application of pesticides;
- (4) The Tennessee Seed Law of 1986, compiled in chapter 10 of this title;
- (5) The Tennessee Commercial Fertilizer Law of 1969, compiled in chapter 11, part 1 of this title;

666

(6) The Tennessee Agricultural Liming Materials Act, compiled in chapter 11, part 4 of this title;

(7) Section 43-27-104, relative to hemp;

(8) The Tennessee Commercial Feed Law of 1972, compiled in title 44, chapter 6;

(9) Title 44, chapter 7, relative to marks, brands, registration, and certification;

(10) The Tennessee Livestock Dealer Act, compiled in title 44, chapter 10, part 2;

(11) Title 44, chapter 11, relative to livestock sales;

(12) Title 44, chapter 16, relative to baby chicks;

(13) Title 47, chapter 26, relative to weights and measures;

(14) The Tennessee Food, Drug and Cosmetic Act, compiled in title 53, chapter 1;

(15) The Tennessee Egg Law, compiled in title 53, chapter 2;

(16) The Dairy Law of the State of Tennessee, compiled in title 53, chapter 3;

(17) Title 53, chapter 7, relative to meat and poultry inspections;

(18) The Tennessee Retail Food Safety Act, compiled in title 53, chapter 8, part 2;

(19) Title 53, chapter 12 [repealed], relative to vending machines; and

(20) Tennessee Application of Pesticides Act of 1978, compiled in title 62, chapter 21.

(c) Any unencumbered moneys and any unexpended balance of the fund remaining at the end of any fiscal year shall not revert to the general fund, but shall be carried forward and maintained until expended in accordance with this part.

(d) Moneys in the fund shall be invested by the state treasurer for the benefit of the fund pursuant to § 9-4-603. Interest accruing on investments and deposits of the fund shall be returned to the fund and remain a part of the fund. The fund shall be administered by the commissioner.

(e) Moneys in the fund may be expended only in accordance with annual appropriations approved by the general assembly. Subject to the foregoing requirement, moneys in the fund shall be expended at the direction of the commissioner only to defray the costs associated with implementing and effectuating the purposes of the statutes specified in subsection (b).

43-26-102. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Farm” means the land, buildings, and machinery used in the commercial production of farm products and nursery stock as defined in § 70-8-303;

(2) “Farm operation” means a condition or activity that occurs on a farm in connection with the commercial production of farm products or nursery stock as defined in § 70-8-303, and includes, but is not limited to: marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; the employment and use of labor; marketing of farm products in conjunction with the production of farm products thereof;

and any other form of agriculture as defined in § 43-1-113;

(3) “Farm product” means those plants and animals useful to man and includes, but is not limited to, forages and sod crops; grains and feed crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing; fruits; vegetables; flowers; seeds; grasses; hemp, as defined in § 43-27-101; trees; fish; apiaries; equine and other similar products; or any other product that incorporates the use of food, feed, fiber or fur; and

(4) [Deleted by 2019 amendment.]

43-26-103. Farms presumed not nuisances.

(a) It is a rebuttable presumption that a farm or farm operation is not a public or private nuisance. The presumption created by this subsection (a) may be overcome only if the person claiming a public or private nuisance establishes by a preponderance of the evidence that either:

(1) The farm operation, based on expert testimony, does not conform to generally accepted agricultural practices; or

(2) The farm or farm operation alleged to cause the nuisance does not comply with any applicable statute or rule, including without limitation statutes and rules administered by the department of agriculture or the department of environment and conservation.

(b) [Deleted by 2019 amendment.]

(c) [Deleted by 2019 amendment.]

(d) [Deleted by 2019 amendment.]

(e) [Deleted by 2019 amendment.]

43-27-101. Chapter definitions.

As used in this chapter:

(1) “Commissioner” means the commissioner of agriculture;

(2) “Department” means the department of agriculture;

(3) “Hemp” means the plant *cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis; and

(4) “THC” means delta-9 tetrahydrocannabinol.

43-27-102. Hemp license — Requirements — Records.

(a) Any person who produces hemp in this state shall obtain an annual license from the department.

(b) In order to obtain and maintain a hemp license, a person must:

(1) Submit to the department a description of all land on which the person produces hemp in this state, to include global positioning system coordinates and other information sufficient to identify the property;

(2) Submit to the department any other information prescribed by rules as necessary for the efficient enforcement of this chapter;

(3) Consent to reasonable inspection and sampling by the department of the person’s hemp crop and inventory; and

(4) Not be convicted of a state or federal felony drug offense within the

668

previous ten (10) years.

(c) The department shall maintain all records that the department creates, or that are submitted to the department, for regulation of hemp in this state for a period of at least five (5) years.

43-27-103. Prohibited acts.

The following acts within this state are prohibited:

(1) Possession of rooted hemp by any person, other than a common carrier, without a valid license issued by the department;

(2) Possession of cannabis with THC concentrations greater than three-tenths of one percent (0.3%) on a dry weight basis;

(3) Failure to pay upon reasonable notice any license, sampling, or inspection fee assessed by the department;

(4) Violation of this chapter or any rule promulgated under this chapter;
or

(5) Willful hindrance of the commissioner or the commissioner's authorized agent in performance of their official duties.

43-27-104. Authority of commissioner.

(a) The commissioner is authorized to:

(1) Administer this chapter;

(2) Take all action necessary to obtain primary regulatory authority over the production of hemp in this state, as authorized by Section 297 of the Agriculture Improvement Act of 2018 (Public Law 115-334);

(3) Promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as necessary for regulation of hemp in accordance with the federal Agriculture Improvement Act of 2018 and as determined by the commissioner to be necessary for the efficient enforcement of this chapter;

(4) Determine requirements for and issue licenses for the production of hemp in this state;

(5) Deny or revoke licenses and issue civil penalties up to one thousand dollars (\$1,000) for each violation of this chapter or its rules;

(6) Establish reasonable fees for hemp licenses necessary to implement and administer a hemp program in this state on an ongoing basis. All revenue collected from fees established under this subdivision (a)(6) must be used exclusively for administration of a hemp regulatory program by the department;

(7) Require the maintenance or filing of records; and

(8) Enter during normal business hours any premises or conveyance of a person licensed under this chapter for purposes of inspection, sampling, and observation and copying of records required under this chapter.

(b) All rules promulgated by the department prior to July 1, 2019, for regulation of industrial hemp are null and void immediately upon rules promulgated to effectuate chapter 87 of the Public Acts of 2019 taking effect. Within one hundred twenty (120) days of chapter 87 of the Public Acts of 2019 becoming law, the department shall promulgate rules necessary to effectuate the purposes of this chapter. The commissioner is authorized to file emergency rules under § 4-5-208 as necessary for compliance with this subsection (b).

43-27-105. Enforcement of chapter — Sample and analysis of hemp produced in state.

(a) The department shall enforce this chapter in a manner that may reasonably be expected to prevent production or distribution of cannabis with THC concentrations exceeding three-tenths of one percent (0.3%) on a dry weight basis, including random inspections and sampling of hemp licensees to ensure compliance with this chapter and rules promulgated under this chapter.

(b) The department shall sample and analyze hemp produced in this state and hemp products distributed in this state for THC concentrations, tested according to protocols prescribed by rule under this chapter. Departmental testing methods shall employ liquid chromatography tandem mass spectrometry, in a manner similarly reliable to post-decarboxylation, to determine a cannabinoid profile of samples tested, including their THC concentrations.

43-27-106. Stop movement or destruction order for plant or product exceeding authorized concentrations — Penalties — Evidence.

(a) When the commissioner or the commissioner's authorized agent finds any cannabis or cannabis product to contain THC concentrations greater than three-tenths of one percent (0.3%) on a dry weight basis, the commissioner may issue either a written stop movement order or written destruction order for the plant or product, as appropriate to best serve the public interest and purpose of this chapter.

(b) Any person who negligently violates this chapter or rules promulgated under this chapter is subject to administrative action by the department including denial or revocation of any license issued under this chapter; issuance of stop movement orders, destruction orders, and civil penalties; and actions for injunction. Negligent violations of this chapter or rules promulgated under this chapter shall not be the basis for criminal prosecution of any person.

(c) Any person who violates this chapter or rules promulgated under this chapter with a culpable mental state greater than negligence shall be subject to prosecution under any applicable state or federal law. If the department determines that a person has violated this chapter or rules promulgated under this chapter with a culpable mental state greater than negligence, the department shall report the matter to the Tennessee bureau of investigation and the United States attorney general.

(d) In all proceedings brought to enforce this chapter, proof of testing consistent with rules promulgated under this chapter showing THC concentrations greater than three-tenths of one percent (0.3%), but not greater than one percent (1.0%), on a dry weight basis is prima facie evidence of a negligent violation of this chapter.

(e) In all proceedings brought to enforce this chapter, the following are prima facie evidence of violation with a culpable mental state greater than negligence:

(1) Proof of testing consistent with rules promulgated under this chapter showing THC concentrations greater than one percent (1.0%) on a dry weight basis;

(2) Three (3) violations within a five-year period for possession of rooted

670

hemp without a valid license issued by the department; or

(3) Violation of any stop movement or destruction order issued under this chapter.

(f) Any person whose license is revoked for violation of this chapter or rules promulgated under this chapter is ineligible for reissuance of the license for a period of at least five (5) years.

43-27-107. Jurisdiction for violations.

When the commissioner has reason to believe that a person is causing or has caused a violation of this chapter or the rules promulgated under this chapter, the commissioner may initiate proceedings in either the chancery court of Davidson County or the chancery court of the county where the violation occurred, for injunctive relief to prevent the continuance of the violation or to correct the conditions resulting in the violation.

43-27-108. Exemption from other applicable statutes and rules not provided by this chapter.

This chapter does not exempt any person from enforcement of statutes and rules applicable to particular uses of hemp, including, but not limited to, food safety statutes and rules for distribution of food products; feed statutes and rules for distribution of commercial feed; and seed statutes and rules for distribution of seed.

43-30-101. [Repealed.]

43-30-102. [Repealed.]

43-30-103. [Repealed.]

43-30-104. [Repealed.]

43-37-103. Unauthorized plants and substances.

Nothing in this chapter shall be construed to authorize the development of or research relative to any strain or variety of cannabis other than hemp, as defined in § 43-27-101.

44-6-103. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Brand name” means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or registrant and distinguishing it from that of others;

(2) “Commercial feed” means all materials except unmixed seed, whole and unprocessed, when not adulterated within the meaning of this chapter, that are offered for sale as feed or mixing for feed; provided, that the commissioner by regulation may exempt from this definition, or from specific provisions of this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls, hemp, as defined in § 43-27-101, and individual compounds or substances, when those commodities, compounds, or substances are not intermixed or mixed with other materials and, except for hemp, are

not adulterated within the meaning of this chapter;

(3) “Commercial feed facility” or “licensed commercial feed facility” means a facility that manufactures or distributes commercial feed in this state and that is subject to licensure pursuant to this chapter;

(4) “Commissioner” means the commissioner of agriculture, or the commissioner’s authorized agent;

(5) “Contract feeder” means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract, whereby the commercial feed is supplied, furnished, or otherwise provided to the person and whereby the person’s remuneration is determined all or in part by feed, consumption, mortality, profits, or amount or quality of product;

(6) “Customer-formula feed” means commercial feed that consists of a mixture of two (2) or more commercial feeds or a mixture of one (1) or more commercial feeds and one (1) or more feed ingredients or a mixture of two (2) or more feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser;

(7) “Distribute” means to offer for sale, sell, exchange, or barter commercial feed or customer-formula feed;

(8) “Distributor” means any person who distributes;

(9) “Drug” means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans, and articles other than feed intended to affect the structure or function of any part of the animal body;

(10) “Feed ingredient” means each of the constituent materials making up a commercial feed;

(11) [Deleted by 2019 amendment.]

(12) “Label” means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed;

(13) “Labeling” means all labels and other written, printed, or graphic matter:

(A) Upon commercial feed or any of its containers or wrapper; or

(B) Accompanying commercial feed;

(14) “Manufacture” means to grind, mix or blend, or further process a commercial feed for distribution;

(15) “Mineral feed” means a commercial feed intended to supply primarily mineral elements or inorganic nutrients;

(16) “Official sample” means a sample of feed taken by the commissioner or the commissioner’s agent in accordance with § 44-6-111(c), (e) or (f);

(17) “Percent” or “percentage” means percentage by weight;

(18) “Person” includes individual, partnership, corporation, association, or other legal entity;

(19) “Pet” means any domesticated animal normally maintained in or near the household of its owner;

(20) “Pet food” means any commercial feed prepared and distributed for consumption by pets;

(21) “Product name” means the name of the commercial feed that identifies it as to kind, class, or specific use;

(22) “Quantity statement” means the net weight (mass), net volume (liquid or dry) or count;

672

(23) “Specialty pet” means any domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacines, birds, mynahs, finches, tropical fish, goldfish, snakes and turtles;

(24) “Specialty pet food” means any commercial feed prepared and distributed for consumption by specialty pets; and

(25) “Ton” means a net weight of two thousand pounds (2,000 lbs.) avoirdupois.

45-10-103. Permissible acts.

The following acts are expressly permitted by, but are not otherwise subject to, this chapter:

(1) The preparation, examination, handling or maintenance of any financial records:

(A) By any attorney, officer, employee or agent of a financial institution having custody of the records; or

(B) By a certified public accountant engaged by the financial institution to perform an independent audit;

(2) The examination of any financial records by, or the furnishing of financial records by a financial institution to, any officer, employee or agent of a supervisory agency for use solely in the exercise of the person’s duties as an officer, employee or agent of the agency;

(3) The publication of data furnished from financial records relating to customers where the data cannot be identified to any particular customer or account;

(4) The making of reports or returns required under the tax laws and/or regulations of this state or the United States;

(5) The furnishing of information permitted to be disclosed under article 3 of the Uniform Commercial Code, compiled in title 47, chapter 3, concerning the dishonor of any negotiable instrument;

(6) The exchange in the regular course of business of credit information between a financial institution and other financial institutions or commercial enterprises, directly or through a credit reporting agency;

(7) The furnishing of information or records deemed by a financial institution to be necessary or incidental to the performance of the duties of a federal, state or local official or agency;

(8) The furnishing of information or records to a federal, state or local official or agency in response to a subpoena lawfully issued by the official or agency. A financial institution may presume that a subpoena that appears valid on its face has been lawfully issued, if the subpoena shows on its face that it is in compliance with:

(A) The notice requirements of § 45-10-106;

(B) The delay provisions of § 45-10-117; or

(C) An administrative subpoena issued by the department of human services pursuant to § 45-10-119;

(9) The furnishing of information or records as a part of a financial institution’s answer, or other pleading, in any action wherein the financial institution is a party, including being a garnishee;

(10) The furnishing of information or records to any federal officer or agency as long as furnishing the information is not prohibited by the federal

Right to Financial Privacy Act of 1978;

(11) The furnishing of information or records in response to any allegation made by a customer;

(12) The furnishing of information or records where deemed necessary to comply with or to preserve rights under:

(A) Any statute, ordinance, or regulation; or

(B) Any contract to which the customer, or any person serving as surety, guarantor, or the like, is a party;

(13) The furnishing of a copy of any negotiable, nonnegotiable or non-transferable instrument to any person named therein as a remitter, party, obligor, or obligee;

(14)(A) The furnishing of records concerning a loan or other obligation, and the obligor or obligors thereon, held by a financial institution to a purchaser or prospective purchaser of the obligation or a participation or interest therein; provided, that:

(i) The purchaser, if a financial institution, shall hold the records subject to the provisions of this chapter, to the same extent as if the obligor or obligors were customers of the purchaser; or

(ii) The purchaser, if not a financial institution, shall undertake not to disclose the records to any person, except:

(a) To or with the consent of the obligors or the obligor's agent;

(b) Pursuant to legal process served on the purchaser; or

(c) As would be permitted under this section if the purchaser were a financial institution.

(B) This subdivision (14) shall not be construed to impose or create a duty of disclosure on the part of a financial institution to a purchaser;

(15)(A) The furnishing by a financial institution of information or records to an affiliate of the financial institution.

(B) As used in this subdivision (15), "affiliate of a financial institution" is:

(i) A corporation, eighty percent (80%) of any class of voting stock of which is owned, directly or indirectly, by the financial institution or by a corporation that, directly or indirectly, also owns eighty percent (80%) of any class of voting stock of the financial institution; or

(ii) A corporation that owns, directly or indirectly, eighty percent (80%) of any class of voting stock of the financial institution.

(C) The affiliate to whom the records and information are furnished shall hold the records or information subject to this chapter as if the affiliate were the financial institution furnishing the records or information; and

(16) The furnishing by a financial institution of information or records to the extent permitted by the Gramm-Leach-Bliley Act of 1999 (Public Law 106-102); provided, the financial institution complies with the consumer disclosure requirements and opt-out provisions of the act.

46-1-113. [Repealed.]

46-6-107. Fees.

(a) The department of veterans' affairs shall not charge a fee for the interment of a veteran who is eligible for interment in a Tennessee veterans'

674

cemetery under the department's guidelines.

(b) The department may charge a fee not to exceed three hundred dollars (\$300) for the interment of an eligible veteran's spouse; provided, that the department shall not charge a fee for the interment of the eligible veteran's most recent spouse.

47-18-103. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Attorney general" means the attorney general and reporter, or the attorney general and reporter's designee;

(2) "Bait and switch" or "switch" means advertising items to lure consumers, then inducing the consumers to buy different and more expensive items by failing to make available the goods or services advertised, or by disparaging the less expensive product. Provision of accurate factual information shall not be considered disparagement;

(3) "Consumer" means any natural person who seeks or acquires by purchase, rent, lease, assignment, award by chance, or other disposition, any goods, services, or property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situated or any person who purchases or to whom is offered for sale a franchise or distributorship agreement or any similar type of business opportunity;

(4) "Contract for home improvement services" means a contractual agreement, written or oral, between a person performing home improvement services and a residential owner, and includes all labor, services and materials to be furnished and performed under such agreement;

(5) "Covered file-sharing program" means a computer program, application, or software that enables the computer on which such program, application, or software is installed to designate files as available for searching by and copying to one (1) or more other computers, to transmit such designated files directly to one (1) or more other computers, and to request the transmission of such designated files directly from one (1) or more other computers. "Covered file-sharing program" does not mean a program, application, or software designed primarily to operate as a server that is accessible over the Internet using the Internet domain name system, to transmit or receive email messages, instant messaging, real-time audio or video communications, or real-time voice communications, or to provide network or computer security, network management, hosting and backup services, maintenance, diagnostics, technical support or repair, or to detect or prevent fraudulent activities;

(6) [Deleted by 2019 amendment.]

(7) "Documentary material" means the original or copy of any book, record, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situated;

(8) "Goods" means any tangible chattels leased, bought, or otherwise obtained for use by an individual primarily for personal, family, or household purposes or a franchise, distributorship agreement, or similar business opportunity;

(9) "Home improvement services" means the repair, replacement, remodeling, alteration, conversion, modernization, improvement, or addition to

any residential property, and includes but is not limited to, the repair, replacement, remodeling, alteration, conversion, modernization, improvement, or addition to driveways, swimming pools, porches, garages, landscaping, fences, fall-out shelters, and roofing;

(10) “Home improvement services provider” means any person or entity, whether or not licensed pursuant to title 62, chapter 6, who undertakes to, attempts to, or submits a price or bid or offers to construct, supervise, superintend, oversee, schedule, direct, or in any manner assume charge of the home improvement service for a fee. “Home improvement services provider” specifically includes but is not limited to a “residential contractor” as defined in § 62-6-102 when performing home improvement services and a “home improvement contractor” as defined in § 62-6-501;

(11) “Knowingly” or “knowing” means actual awareness of the falsity or deception, but actual awareness may be inferred where objective manifestations indicate that a reasonable person would have known or would have had reason to know of the falsity or deception;

(12) “Local telephone directory” means a telephone directory that is distributed by a telephone company or directory publisher, or provided as a service to subscribers located in the local exchanges contained in the directory. “Local telephone directory” includes:

(A) A classified advertising directory, commonly referred to as the yellow pages;

(B) A directory of individual telephone listings, commonly referred to as the white pages, whether identified as “business listings” or combined in listings of residences and businesses in a directory that does not have separate residence and business listings;

(C) A directory that includes listings of more than one (1) telephone company; or

(D) A directory assistance database or similar service, commonly used by dialing “411” and speaking with a live person or through an automated system;

(13) “Local telephone number” means a telephone number that has the three (3) number prefix used by the provider of telephone service for telephones physically located within the area covered by the local telephone directory in which the number is listed. “Local telephone number” does not include long distance numbers or 800, 888, or 900 exchange numbers listed in a local telephone directory;

(14) “Person” means a natural person, individual, governmental agency, partnership, corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized;

(15) “Physical address” means the mailing address, including a zip code, which details the actual location of a person or entity, but does not include a post office box;

(16) “Possession” means actual care, custody, control, or management of residential property, but shall not include occupancy of residential property through a lease or rental agreement;

(17) “Residential owner” means a person who has possession of residential real property, including any person authorized by such residential owner to act on the residential owner’s behalf;

(18) “Residential property” means the building structure where a person abides, lodges, resides or establishes a living accommodation or where a

676

residential owner intends to abide, lodge, reside or establish a living accommodation following the completion of home improvement services made pursuant to a contract for home improvement services and includes the land on or adjacent to such building structure;

(19) "Services" means any work, labor, or services including services furnished in connection with the sale or repair of goods or real property or improvements thereto; and

(20) "Trade," "commerce," or "consumer transaction" means the advertising, offering for sale, lease or rental, or distribution of any goods, services, or property, tangible or intangible, real, personal, or mixed, and other articles, commodities, or things of value wherever situated.

47-18-104. Unfair or deceptive acts prohibited.

(a) Unfair or deceptive acts or practices affecting the conduct of any trade or commerce constitute unlawful acts or practices and are Class B misdemeanors.

(b) The following unfair or deceptive acts or practices affecting the conduct of any trade or commerce are declared to be unlawful and in violation of this part:

(1) Falsely passing off goods or services as those of another;

(2) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services. This subdivision (b)(2) does not prohibit the private labeling of goods and services;

(3) Causing likelihood of confusion or misunderstanding as to affiliation, connection or association with, or certification by, another. This subdivision (b)(3) does not prohibit the private labeling of goods or services;

(4) Using deceptive representations or designations of geographic origin in connection with goods or services;

(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship approval, status, affiliation or connection that such person does not have;

(6) Representing that goods are original or new if they are deteriorated, altered to the point of decreasing the value, reconditioned, reclaimed, used or secondhand;

(7) Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another;

(8) Disparaging the goods, services or business of another by false or misleading representations of fact;

(9) Advertising goods or services with intent not to sell them as advertised;

(10) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(11) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

(12) Representing that a consumer transaction confers or involves rights, remedies or obligations that it does not have or involve or which are prohibited by law;

(13) Representing that a service, replacement or repair is needed when it

is not;

(14) Causing confusion or misunderstanding with respect to the authority of a salesperson, representative or agent to negotiate the final terms of a consumer transaction;

(15) Failing to disclose that a charge for the servicing of any goods in whole or in part is based on a predetermined rate or charge, or guarantee or warranty, instead of the value of the services actually performed;

(16) Disconnecting, turning back, or resetting the odometer of any motor vehicle so as to reduce the number of miles indicated on the odometer gauge, except as provided for in § 39-14-132(b);

(17) Advertising of any sale by falsely representing that a person is going out of business;

(18) Using or employing a chain referral sales plan in connection with the sale or offer to sell of goods, merchandise, or anything of value, which uses the sales technique, plan, arrangement or agreement in which the buyer or prospective buyer is offered the opportunity to purchase goods or services and, in connection with the purchase, receives the seller's promise or representation that the buyer shall have the right to receive compensation or consideration in any form for furnishing to the seller the names of other prospective buyers if the receipt of compensation or consideration is contingent upon the occurrence of an event subsequent to the time the buyer purchases the merchandise or goods;

(19) Representing that a guarantee or warranty confers or involves rights or remedies which it does not have or involve; provided, that nothing in this subdivision (b)(19) shall be construed to alter the implied warranty of merchantability as defined in § 47-2-314;

(20) Selling or offering to sell, either directly or associated with the sale of goods or services, a right of participation in a pyramid distributorship. As used in this subdivision (b)(20), a "pyramid distributorship" means any sales plan or operation for the sale or distribution of goods, services or other property wherein a person for a consideration acquires the opportunity to receive a pecuniary benefit, which is not primarily contingent on the volume or quantity of goods, services or other property sold or delivered to consumers, and is based upon the inducement of additional persons, by such person or others, regardless of number, to participate in the same plan or operation;

(21) Using statements or illustrations in any advertisement which create a false impression of the grade, quality, quantity, make, value, age, size, color, usability or origin of the goods or services offered, or which may otherwise misrepresent the goods or services in such a manner that later, on disclosure of the true facts, there is a likelihood that the buyer may be switched from the advertised goods or services to other goods or services;

(22) Using any advertisement containing an offer to sell goods or services when the offer is not a bona fide effort to sell the advertised goods or services. An offer is not bona fide, even though the true facts are subsequently made known to the buyer, if the first contact or interview is secured by deception;

(23) Representing in any advertisement a false impression that the offer of goods has been occasioned by a financial or natural catastrophe when such is not true, or misrepresenting the former price, savings, quality or ownership of any goods sold;

(24) Assessing a penalty for the prepayment or early payment of a fee or charge for services by a utility or company which has been issued a franchise

license by a municipal governing body to provide services. Nothing in this subdivision (b)(24) shall be construed to prohibit a discount from being offered for early payment of the applicable fee or charge for services. This subdivision (b)(24) does not apply to a utility or company whose billing statement reflects charges both for service previously rendered and in advance of services provided;

(25) Discriminating against any disabled individual, as defined by §§ 47-18-802(b) and 55-21-102(3), in violation of the Tennessee Equal Consumer Credit Act of 1974, compiled in part 8 of this chapter. This subdivision (b)(25) does not apply to any creditor or credit card issuer regulated by the department of financial institutions. The attorney general shall refer any complaint against such a creditor or credit card issuer involving the Equal Consumer Credit Act to such department for investigation and disposition;

(26) Violating § 65-5-106;

(27) Engaging in any other act or practice which is deceptive to the consumer or to any other person; provided, however, that enforcement of this subdivision (b)(27) is vested exclusively in the office of the attorney general and reporter;

(28)(A)(i) Failing of a motor vehicle repair facility to return to a customer any parts which were removed from the motor vehicle and replaced during the process of repair if the customer, at the time repair work was authorized, requested return of such parts; provided, that any part retained by the motor vehicle repair facility as part of a trade-in agreement or core charge agreement for a reconditioned part need not be returned to the customer unless the customer agrees to pay the facility the additional core charge or other trade-in fee; and provided further, that any part required to be returned to a manufacturer or distributor under a warranty agreement or any part required by any federal or state statute or rule or regulation to be disposed of by the facility need not be returned to the customer; or

(ii) Failing of a motor vehicle repair facility to permit inspection of any parts retained by the repair facility if the customer, at the time repair work was authorized, expressed the customer's desire to inspect such parts; provided, that if, after inspection, the customer requests return of such parts, the restrictions set forth in subdivision (b)(28)(A)(i) shall apply;

(B)(i) Failing of a motor vehicle repair facility to post in a prominent location notice of the provisions of this subdivision (b)(28); or

(ii) Failing of a motor vehicle repair facility to print on the repair contract notice of the provisions of this subdivision (b)(28);

(C) The motor vehicle repair facility need not retain any parts not returned to the customer after the motor vehicle has been returned to the customer;

(29) Advertising that a business is "going out of business" more than ninety (90) days before such business ceases to operate;

(30) Failing to comply with §§ 6-55-401 — 6-55-413, where a municipality has adopted the regulations of liquidation sales pursuant to § 6-55-413;

(31) Offering lottery winnings in exchange for making a purchase or incurring a monetary obligation pursuant to § 47-18-120;

(32)(A) The act of misrepresenting the geographic location of a person through a business name or listing in a local telephone directory or on the Internet is an unfair or deceptive act or practice affecting the conduct of

trade or commerce, if:

- (i) The name misrepresents the person's geographic location; or
- (ii) The listing fails to clearly and conspicuously identify the locality and state of the person's business;
- (iii) Calls to the listed telephone number are routinely forwarded or otherwise transferred to a person's business location that is outside the calling area covered by the local telephone directory, or that is outside the local calling area for the telephone number that is listed on the Internet;
- (iv) The person's business location is located in a county that is not contiguous to a county in the calling area covered by the local telephone directory, or is located in a county that is not contiguous to a county in the local calling area for the telephone number that is listed on the Internet; and
- (v) The person does not have a business location or branch, or an affiliate or subsidiary of the person does not have a business location or branch, in the calling area or county contiguous to the local calling area.

(B) This subdivision (b)(32) shall not apply:

(i) To a telecommunications service provider, an Internet service provider, or to the publisher or distributor of a local telephone directory unless the act is on behalf of the Internet or telecommunications service provider or on behalf of the publisher or distributor of the local telephone directory; or

(ii) To the act of listing a number for a call center. For purposes of this subdivision (b)(32)(B)(ii), "call center" means a location that utilizes telecommunication services for activities related to an existing customer relationship, including, but not limited to, customer services, reactivating dormant accounts or receiving reservations.

(C) Notwithstanding any other law to the contrary, and without limiting the scope of § 47-18-104, a violation of this subdivision (b)(32) shall be punishable by a nonremedial civil penalty of a minimum of one thousand dollars (\$1,000) to a maximum of five thousand dollars (\$5,000) per violation. Civil penalties assessed under this subdivision (b)(32) are separate and apart from the remedial civil penalties authorized in § 47-18-108(b)(3).

(D) This subdivision (b)(32) applies only to information supplied to a telephone directory published after July 1, 2008, information that is published on the Internet after July 1, 2008, or to information supplied for entry into a directory assistance database after July 1, 2008;

(33) Advertising that a person is an electrician for hire when such person has not been licensed by a local jurisdiction to perform electrical work within such jurisdiction or by the state as a limited licensed electrician or contractor, as appropriate or, if no such licenses are then available, such person is not registered with the state;

(34) Unreasonably raising prices or unreasonably restricting supplies of essential goods, commodities or services in direct response to a crime, act of terrorism, war, or natural disaster, regardless of whether such crime, act of terrorism, war, or natural disaster occurred in the state of Tennessee;

(35) Representing that a person is a licensed contractor when such person has not been licensed as required by § 62-6-103 or § 62-6-502; or, acting in

the capacity of a contractor as defined in § 62-6-102(4)(A), § 62-6-102(7) or § 62-6-501, and related rules and regulations of the state of Tennessee, or any similar statutes, rules and regulations of another state, while not licensed;

(36)(A) Using any advertisement for a workshop, seminar, conference, or other meeting that contains a reference to a living trust or a revocable living trust, or that otherwise offers advice or counsel on estate taxation unless such advertisement also includes the information required in this subdivision (b)(36);

(B) An advertisement as provided in this subdivision (b)(36) shall, at a minimum, include the following:

(i) The maximum exclusion for federal estate tax purposes and the maximum exemption for state inheritance tax purposes for the year in which the advertisement appears;

(ii) Includes a statement that certain property, including real property, insurance proceeds, deposit accounts, stocks and retirement fund, may be taxable or not taxable, depending on how legal title is held or beneficiary designation is made, or both;

(iii) Includes a statement that certain property may be transferred through several different means including, but not limited to, joint ownership of property with rights of survivorship, joint deposit accounts, beneficiary designations or elections permitted under retirement plans, insurance policies, trusts, or wills; and

(iv) A statement that before creating any transfer through a living trust, revocable living trust, or otherwise, the individual should seek advice from an attorney, accountant or other tax professional to determine the true tax impact and ensure that assets are properly transferred into any trust;

(C) The disclosure required in this subdivision (b)(36) shall be printed in not less than 10-point type;

(D) This subdivision (b)(36) shall not apply to an advertisement by any attorney, law firm, bank, savings institution, trust company, or registered securities broker-dealer which is directed to clients or customers of such person with whom such person has had a client or customer relationship within the prior two (2) years. This subdivision (b)(36) shall also not apply to any continuing education seminars or conferences conducted for the benefit of bankers, attorneys, accountants, or other professional financial advisors;

(37) Refusing to accept the return of clothing or accessories sold at retail directly to a purchaser, who seeks to return the same for any reason for refund or credit; provided, that:

(A) The purchaser presents the clothing or accessories within the retailer's prescribed period for return of merchandise;

(B) The purchaser presents satisfactory proof of purchase;

(C) The merchandise is, in no way, damaged and exhibits no sign of wear or cleaning;

(D) All tags and stickers affixed or attached to the merchandise at the time of sale remain affixed or attached at the time of return; and

(E) The sale of the merchandise was not marked, advertised or otherwise characterized as "final", "no return", "no refunds", or in any manner reasonably indicating that the merchandise would not be accepted for

return;

(38)(A) Requiring the purchaser to present that purchaser's driver license as a prerequisite for accepting the return of clothing or accessories for refund or credit, notwithstanding compliance with the conditions set forth in subdivision (b)(37), unless such a requirement is for the purpose of preventing fraud and abuse;

(B) Notwithstanding any provision of subdivision (b)(37) or (b)(38)(A) to the contrary, return denials are permitted for the purpose of preventing fraud and abuse;

(39) Representing that a person, or such person's agent, authorized designee or delegate for hire, has conducted a foreclosure on real property, when such person knew or should have known that a foreclosure was not actually conducted on the real property;

(40)(A) Selling or offering to sell a secondhand mattress in this state or importing secondhand mattresses into this state for the purpose of resale in violation of § 68-15-203(b);

(B) Subdivision (b)(40)(A) shall apply to a mattress manufacturer, wholesaler or retailer. Subdivision (b)(40)(A) shall not apply to an institution or organization that has received a determination of exemption from the internal revenue service under 26 U.S.C. § 501(c)(3), and as described in § 67-6-348. The exemption provided in this subdivision (b)(40)(B) shall be limited to institutions or organizations that are not organized or operated for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(41)(A) Knowingly advertising or marketing for sale a newly constructed residence as having more bedrooms than are permitted by the newly constructed residence's subsurface sewage disposal system permit, as defined in § 68-221-402, unless prior to the execution of any sales agreement the permitted number of bedrooms is disclosed in writing to the buyer. The real estate licensee representing the owner may rely upon information furnished by the owner;

(B) If a newly constructed residence is marketed for sale as having more bedrooms than are permitted by the subsurface sewage disposal system permit and no disclosure of the actual number of bedrooms permitted occurs prior to the execution of a sales agreement, then the buyer shall have the right to rescind the sales agreement and may recover treble damages as provided in § 47-18-109;

(C) A subsurface sewage disposal system permit issued in the name of the owner of a newly constructed residence shall serve as constructive notice to that owner of the newly constructed residence for the purpose of establishing knowledge as to the number of bedrooms of the newly constructed residence for the purpose of finding a violation of this subdivision (b)(41). A real estate licensee representing the owner must have actual knowledge transmitted from the owner to the real estate licensee to be in violation of this subdivision (b)(41);

(42) Offering, through the mail or by other means, a check that contains an obligation to advertise with a person upon the endorsement of the check. The obligation is effective upon the check being signed and deposited into the consumer's bank account;

(43) The act or practice of directly or indirectly:

(A) Making representations that a person will pay or reimburse for a motor vehicle traffic citation for any person who purchases a device or mechanism, passive or active, that can detect or interfere with a radar, laser or other device used to measure the speed of motor vehicles;

(B) Advertising, promoting, selling or offering for sale any radar jamming device that includes any active or passive device, instrument, mechanism, or equipment that interferes with, disrupts, or scrambles the radar or laser that is used by law enforcement agencies and officers to measure the speed of motor vehicles; or

(C) Advertising, promoting, selling or offering for sale any good or service that is illegal or unlawful to sell in the state;

(44) Violating § 47-18-5402;

(45)(A) Installing, offering to install, or making available for installation, reinstallation or update a covered file-sharing program onto a computer without being an authorized user of that computer or without first providing clear and conspicuous notice to the authorized user of the computer that the files on that computer will be made available to the public, obtaining consent of the authorized user to installation of the program, and requiring affirmative steps by the authorized user to activate any feature on the program that will make files on that computer available to the public; or

(B) Preventing reasonable efforts to disable or remove, or to block the installation or execution of, a covered file-sharing program on a computer;

(46)(A) The act or practice of directly or indirectly advertising, promoting, selling, or offering for sale international driver's licenses. It is a per se violation of this subdivision (b)(46) to:

(i) Misrepresent that any international driver's license sold or offered for sale confers a privilege to operate a motor vehicle on the streets and highways in this state; or

(ii) Represent that any international driver's license sold or offered for sale is of a particular standard, quality or grade;

(B) For purposes of this subdivision (b)(46), unless the context otherwise requires:

(i) "International driver's license" means a document that purports to confer a privilege to operate a motor vehicle on the streets and highways in this state and is not issued by a governmental entity. Such document may be an imitation of an international driving permit; and

(ii) "International driving permit" means the document issued by a duly authorized automobile association to a holder of a valid driver license which grants such holder the privilege to operate a motor vehicle in countries or international bodies that are signatory parties to Article 24 of the 1949 United Nations Convention on Road Traffic, pursuant to 3 U.S.T. § 3008;

(C) Notwithstanding any other law to the contrary, and without limiting the scope of this section, a violation of this subdivision (b)(46) shall be punishable by a non-remedial civil penalty of a minimum of one thousand dollars (\$1,000) to a maximum of three thousand dollars (\$3,000) per violation. Civil penalties assessed under this subdivision (b)(46) are separate and apart from the remedial civil penalties authorized in § 47-18-108(b)(3);

(47) A home improvement services provider:

(A) Entering into a contract for home improvement services without providing to the residential owner in written form:

(i) That it is a criminal offense for the person entering into the contract for home improvement services with a residential owner to do any of the prohibited acts set out in § 39-14-154(b), by writing out the text of each prohibited act, and providing the penalty and available relief for such; and

(ii) The true and correct name, physical address and telephone number of the home improvement services provider; or

(B) Having complied with subdivision (b)(47)(A), failing to provide to the residential owner in written form a correct current or forwarding address if the person changes the physical address initially provided to the residential owner and any or all work to be performed under the contract has not been completed;

(48) Failing to comply with title 62, chapter 6, part 6;

(49) Engaging in a Ponzi scheme, defined as a fraudulent investment scheme in which money placed by later investors pays artificially high dividends to the original investor, thereby attracting even larger investments;

(50) Making fraudulent statements or intentional omissions in order to induce a consumer to sell securities or other things of value to fund an investment;

(51) Advertising services for the provision of a warranty for a motor vehicle, as defined in § 55-8-101, in a deceptive manner that is likely to cause the owner of the motor vehicle to believe that the advertisement originated from the original manufacturer of the motor vehicle or from the dealer that sold the motor vehicle to the owner; and

(52) Uses the trade name or trademark, or a confusingly similar trade name or trademark of any place of entertainment, or the name of any event, person, or entity scheduled to perform at a place of entertainment in the domain of a ticket marketplace URL. It is not a violation of this subdivision (b)(52) if the ticket marketplace obtained written authorization from the place of entertainment, event, person, or entity scheduled to perform at a place of entertainment to use the trade name, trademark, or name in the domain of the URL prior to the use. For purposes of this subdivision (b)(52):

(A) "Domain" means the portion of text in a URL that is to the left of the top-level domains such as .com, .net, or .org;

(B) "Place of entertainment" means an entertainment facility in this state, such as a theater, stadium, museum, arena, amphitheater, race-track, or other place where performances, concerts, exhibits, games, athletic events, or contests are held;

(C) "Ticket" means a printed, electronic, or other type of evidence of the right, option, or opportunity to occupy space at, to enter, or to attend a place of entertainment, even if not evidenced by any physical manifestation of the right, option, or opportunity; and

(D) "Ticket marketplace" means a website that provides a forum for or facilitates the buying and selling, or reselling, of a ticket.

(c) The following are among the acts or practices which will be considered in determining if an offer to sell goods or services is not bona fide:

(1) Refusal to reasonably show, demonstrate or sell the goods or services offered in accordance with the terms of the offer;

(2) Disparagement by acts or words of the advertised goods or services or disparagement with respect to the guarantee, credit terms, availability of service, repairs or parts, or in any other respect, in connection with the advertised goods or services;

(3) Failure to make available at all outlets listed in the advertisement a sufficient quantity of the advertised goods or services to meet reasonably expectable public demand, unless the advertisement clearly and conspicuously discloses that the availability of a particular good is limited and/or the goods or services are available only at designated outlets, or unless the advertisement discloses that a particular good is to be closed out or offered for a limited time. In the event of an inadequate inventory, issuing of "rain checks" for goods or offering comparable or better goods at the sale price may be considered a good faith effort to make the advertised goods available, unless there is a pattern of inadequate inventory or unless the inadequate inventory was intentional. If rain checks are offered, the goods must be delivered within a reasonable time;

(4) Refusal to take orders or give rain checks for the advertised goods or services, when the advertisement does not disclose their limited quantity or availability to be delivered within a reasonable period of time;

(5) Showing or demonstrating goods or services which are defective, unusable or impractical for the purpose represented or implied in the advertisement when such defective, unusable or impractical nature is not fairly and adequately disclosed in the advertisement; and

(6) Use of a sales plan or method of compensating or penalizing salespersons designed to prevent or discourage them from selling the advertised goods or services. This does not prohibit compensating salespersons by use of a commission.

(d) The fact that a seller occasionally sells the advertised goods or services at the advertised price does not constitute a defense when the seller's overall purpose is to engage in bait and switch tactics.

(e) Nothing in § 47-18-103(1) or subdivisions (b)(21)-(23) and subsections (c) and (d) shall prevent a seller from advertising goods and services with the hope that consumers will buy goods or services in addition to those advertised.

(f) For the purposes of subsection (b), investment does not include a security defined in § 48-1-102 or any insurance or annuity contract.

47-18-106. Investigations — Requests for information — Penalties for noncompliance.

(a) Whenever the attorney general has reason to believe that a person is engaging in, has engaged in, or, based upon information received from another law enforcement agency, is about to engage in any unlawful act or practice under this part, or has reason to believe it to be in the public interest to conduct an investigation to ascertain whether any person is engaging in, has engaged in, or is about to engage in such act or practice, the attorney general may:

(1) Require the person to file a statement or report in writing, under oath or otherwise, as to all the facts and circumstances concerning the alleged violation and to furnish and make available for examination all documentary material and information relevant to the subject matter of the investigation;

(2) Examine under oath any person connected to the alleged violation;

and

(3) Examine any merchandise or any sample of merchandise deemed relevant to the subject matter of the investigation.

(b) At any time prior to the return date specified in the attorney general's request for information pursuant to subsection (a), or within ten (10) days following notice of such a request, whichever is shorter, any person from whom information has been requested may petition the circuit or chancery court of Davidson County, stating good cause, for a protective order to extend the return date for a reasonable time, or to modify or set aside the request. The attorney general shall receive at least one (1) day's notice of such a petition and shall be given an opportunity to respond.

(c) If no protective order from the court is secured and the written request by the attorney general is not complied with by its return date, the attorney general, upon notice to the person requested to provide information, may apply to a court of competent jurisdiction for an order compelling compliance with the request made pursuant to subsection (a).

(d) Any court of competent jurisdiction in this state, upon a showing by the attorney general that there are reasonable grounds to believe that this part is being, has been, or is about to be violated; that the persons who are committing, have committed, or are about to commit such acts or practices or who possess the relevant documentary material have left the state or are about to leave the state; and that such an order is necessary for the enforcement of this part, may order such persons to comply with subsection (a) whether the attorney general has made a prior request for information or not. The court may also, notwithstanding any provision to the contrary, immediately and without notice, forbid the removal from any place, concealment, withholding, destruction, mutilation, falsification, or alteration by any other means of any documentary material in the possession, custody, or control of any person believed by the attorney general to be connected with acts or practices which violate this part.

(e) Any person who has received notice of a request for information pursuant to subsection (a), or of an order pursuant to subsection (c) or (d), and with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation or order under this part, removes from any place, conceals, withholds, destroys, mutilates, falsifies or by any other means alters any documentary material in the possession, custody, or control of any person subject to such notice, shall be subject to a civil penalty of not more than one thousand dollars (\$1,000), recoverable by the state in addition to any other appropriate sanction.

(f) Documentary material or merchandise requested pursuant to this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person possessing such documentary material or merchandise, or at such other time and place as may be agreed upon by the possessor and the attorney general.

(g) No documentary material, merchandise, or other information, including trade secrets, obtained pursuant to a request under this section, unless otherwise ordered by the court for good cause shown, shall be produced for inspection, copied by, or its contents disclosed to, any person other than an authorized representative of the attorney general or other proper law enforcement official for the purpose of prosecution without the consent of the person who produced the material or information. The attorney general may use

copies of the documentary material produced in accordance with this section and merchandise impounded under a court order as it determines necessary in the enforcement of this part, including the presentation before any court; provided, that none of the powers conferred upon the attorney general by this part shall be used for the purpose of compelling any natural person to furnish testimony or evidence which may be protected by such person's right against self-incrimination.

(h) In conducting an inquiry pursuant to this section, the attorney general, whenever such aid is determined to be necessary and desirable, may request the aid of any agency of the state; and any agency, as requested, shall give full aid, support, and cooperation to the attorney general in such investigation.

(i) Service of any notice, order, or request for information by the attorney general may be made in compliance with the Tennessee Rules of Civil Procedure or by:

(1) Delivering a duly executed copy of the notice, order, or request for information to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of that person;

(2) Mailing by registered or certified mail a duly executed copy of the notice, order, or request for information addressed to the person, to be served at the person's principal place of business in this state, or if the person has no place of business within this state, to the person's principal office, place of business, home, or last known address; or

(3) Personal service, pursuant to §§ 20-2-214 — 20-2-220.

47-18-107. Assurance of voluntary compliance — Penalty for violation.

(a) In the administration of this part, the attorney general, may negotiate and accept an assurance of voluntary compliance with respect to any act or practice considered to violate this part, from any person who allegedly is engaging in, has engaged in, or, based upon information received from another law enforcement agency, is about to engage in the act or practice. The assurance shall be in writing and shall be filed with and subject to the approval of the circuit or chancery court of Davidson County.

(b) The acceptance of an assurance of voluntary compliance may be conditioned on the stipulation that the person considered to be in violation of this part restore to any person in interest any money or property, real, personal, or mixed, which may have been acquired by means of acts or practices which are considered to violate this part.

(c) An assurance of voluntary compliance shall not be considered an admission of prior violation of this part. However, unless an assurance has been rescinded by agreement of the parties or voided by a court for good cause, subsequent failure to comply with the terms of the assurance is prima facie evidence of a violation of this part.

(d) Matters closed by the filing of an assurance of voluntary compliance may be reopened for cause by the attorney general at any time.

(e) Assurance of voluntary compliance shall in no way affect individual rights of action which may exist independent of the recovery of money or property received pursuant to a stipulation in voluntary compliance under subsection (b).

(f) Any knowing violation of the terms of an agreement of voluntary

compliance, unless it has been rescinded by agreement of the parties or voided by a court for good cause, shall be punishable by a civil penalty of not more than one thousand dollars (\$1,000), recoverable by the state for each violation, in addition to any other appropriate sanction.

47-18-108. Restraining orders or injunctions — Penalty for violation.

(a)(1) Whenever the attorney general has reason to believe that any person has engaged in, is engaging in, or, based upon information received from another law enforcement agency, is about to engage in any act or practice declared unlawful by this part and that proceedings would be in the public interest, the attorney general may bring an action in the name of the state against such person to restrain by temporary restraining order, temporary injunction, or permanent injunction the use of such act or practice.

(2) Unless the attorney general determines in writing that the purposes of this part will be substantially impaired by delay in instituting legal proceedings, the attorney general shall, at least ten (10) days before instituting legal proceedings as provided for in this section, give notice to the person against whom proceedings are contemplated and give such person an opportunity to present reasons why such proceedings should not be instituted.

(3) As part of any action brought pursuant to subdivision (a)(1), the attorney general shall certify that the division of consumer affairs complied with § 47-18-5002(2) unless the attorney general determines that the purposes of this part will be substantially impaired by delaying legal proceedings.

(4) The action may be brought in a court of competent jurisdiction in the county where the alleged unfair or deceptive act or practice took place or is about to take place or in the county in which such person resides, has such person's principal place of business, conducts, transacts, or has transacted business or, if the person cannot be found in any of the foregoing locations, in the county in which such person can be found.

(5) The courts are authorized to issue orders and injunctions to restrain and prevent violations of this part, and such orders and injunctions shall be issued without bond.

(6) Whenever any permanent injunction is issued by a court in connection with any action which has become final, reasonable costs shall be awarded to the state.

(b)(1) The court may make such orders or render such judgments as may be necessary to restore to any person who has suffered any ascertainable loss by reason of the use or employment of such unlawful method, act, or practice, any money or property, real, personal, or mixed, or any other article, commodity, or thing of value wherever situated, which may have been acquired by means of any act or practice declared to be unlawful by this part.

(2) The court may also enter an order temporarily or permanently revoking a license or certificate authorizing that person to engage in business in this state, if evidence has been presented to the court establishing knowing and persistent violations of this part.

(3) The court may also order payment to the state of a civil penalty of not more than one thousand dollars (\$1,000) for each violation. In determining the amount of a civil penalty, the court may consider the defendant's

participation in the complaint resolution process described in § 47-18-5002(2), and the defendant's restitution efforts prior to the initiation of an action pursuant to subdivision (a)(1), in addition to any other factors.

(4) The court may also order reimbursement to the state for the reasonable costs and expenses of investigation and prosecution of actions under this part, including attorneys' fees.

(5) In the course of any action brought pursuant to subdivision (a)(1), the court may order the parties to engage in pre-trial mediation. If a party requests the court to order the parties to mediation, then the requesting party bears the costs associated with the mediation, unless both parties agree to bear the costs.

(c) Any knowing violation of the terms of an injunction or order issued pursuant to subsection (a) or (b) shall be punishable by a civil penalty of not more than two thousand dollars (\$2,000), recoverable by the state for each violation, in addition to any other appropriate relief.

47-18-109. Private right of action — Damages — Notice to attorney general.

(a)(1) Any person who suffers an ascertainable loss of money or property, real, personal, or mixed, or any other article, commodity, or thing of value wherever situated, as a result of the use or employment by another person of an unfair or deceptive act or practice described in § 47-18-104(b) and declared to be unlawful by this part, may bring an action individually to recover actual damages.

(2) The action may be brought in a court of competent jurisdiction in the county where the alleged unfair or deceptive act or practice took place, is taking place, or is about to take place, or in the county in which such person resides, has such person's principal place of business, conducts, transacts, or has transacted business, or, if the person cannot be found in any of the foregoing locations, in the county in which such person can be found.

(3) If the court finds that the use or employment of the unfair or deceptive act or practice was a willful or knowing violation of this part, the court may award three (3) times the actual damages sustained and may provide such other relief as it considers necessary and proper, except that the court may not award exemplary or punitive damages for the same unfair or deceptive practice.

(4) In determining whether treble damages should be awarded, the trial court may consider, among other things:

- (A) The competence of the consumer or other person;
- (B) The nature of the deception or coercion practiced upon the consumer or other person;
- (C) The damage to the consumer or other person; and
- (D) The good faith of the person found to have violated this part.

(5) This subsection (a) does not apply with respect to alleged violations of the Tennessee Equal Consumer Credit Act of 1974, compiled in part 8 of this chapter.

(b) Without regard to any other remedy or relief to which a person is entitled, anyone affected by a violation of this part may bring an action to obtain a declaratory judgment that the act or practice violates this part and to enjoin the person who has violated, is violating, or who is otherwise likely to violate this part; provided, that such action shall not be filed once the attorney

general has commenced a proceeding pursuant to § 47-18-107 or § 47-18-108.

(c)(1) Any person who has been affected by an act or practice declared to be a violation of this part may accept any written reasonable offer of settlement made by the person or persons considered to have violated this part; provided, that the tender of acceptance of such a settlement offer shall not abate any proceeding commenced by the attorney general pursuant to § 47-18-107 or § 47-18-108.

(2) Such a settlement may be set aside by a court of competent jurisdiction at the request of the affected person or of the attorney general if such a request is made within one (1) year from the date of the settlement agreement and if the court finds the settlement to be unreasonable.

(3) In determining the reasonableness of a settlement, the court shall consider:

- (A) The competence of the consumer or other person;
- (B) The nature of the deception or coercion practiced upon the consumer or other person;
- (C) The value of the consideration received; and
- (D) The nature and extent of the legal advice received by the consumer or other person.

If the consumer or other person was not represented by legal counsel at the time of the offer of settlement, the person claiming the benefit of the settlement shall have the burden of establishing that it is reasonable.

(4) In any private action commenced under this section, the court may, upon the introduction of proof that the person against whom the action is filed has made a written, reasonable offer of settlement which has been communicated to the affected party, limit the amount of recovery to the terms of the offer of settlement.

(d) Any permanent injunction, judgment, or final court order made pursuant to § 47-18-108, or assurance of voluntary compliance entered into pursuant to § 47-18-107, which has not been complied with, shall be prima facie evidence of the violation of this part in any action brought pursuant to this section.

(e)(1) Upon a finding by the court that a provision of this part has been violated, the court may award to the person bringing such action reasonable attorney's fees and costs.

(2) In any private action commenced under this section, upon finding that the action is frivolous, without legal or factual merit, or brought for the purpose of harassment, the court may require the person instituting the action to indemnify the defendant for any damages incurred, including reasonable attorney's fees and costs.

(3) This subsection (e) does not apply to an action initiated by the attorney general.

(f)(1) Upon the commencement of any action brought under subsections (a) and (b), the clerk of the court shall mail a copy of the complaint or other initial pleading to the attorney general and, upon the entry of any judgment, order, or decree in the action, shall mail a copy of such judgment, order or decree to the attorney general.

(2) A copy of any notice of appeal shall be served by the appellant upon the attorney general, who in the public interest may intervene on appeal.

(g) No class action lawsuit may be brought to recover damages for an unfair or deceptive act or practice declared to be unlawful by this part.

(h) No private right of action shall be commenced under this section for any

690

alleged unfair or deceptive act or practice involving the marketing or sale of a security as defined in the Tennessee Securities Act, § 48-1-102.

47-18-111. Exemptions.

(a) This part does not apply to:

(1) Acts or transactions required or specifically authorized under the laws administered by, or rules and regulations promulgated by, any regulatory bodies or officers acting under the authority of this state or of the United States;

(2) A publisher, broadcaster, or other person principally engaged in the preparation or dissemination of information or the reproduction of printed or pictorial matter, who has prepared or disseminated such information or matter on behalf of others without notification from the attorney general that the information or matter violates or is being used as a means to violate this part;

(3) Credit terms of a transaction which may be otherwise subject to this part, except insofar as the Tennessee Equal Consumer Credit Act of 1974, compiled in part 8 of this chapter may be applicable; or

(4) A retailer who has in good faith engaged in the dissemination of claims of a manufacturer or wholesaler without actual knowledge that such claims violated this part.

(b) The burden of proving an exemption from this part, as provided in this section, shall be upon the person claiming the exemption.

47-18-114. Powers of attorney general.

The attorney general may bring any appropriate action or proceeding in any court of competent jurisdiction pursuant to this part.

47-18-116. Costs.

No costs shall be taxed against the attorney general in actions commenced under this part.

47-18-118. Failure to respond to request for information.

Upon receipt of a written request from the attorney general, failing to submit written answers concerning the basis upon which the approximate verifiable retail value was determined pursuant to the requirements of § 47-18-120(c)(1)(D) and (E), including supplying the attorney general with copies of invoices, receipts, or other business records that would substantiate the disclosed retail value, shall be a violation of this part.

47-18-130. Travel promoters — Commingling of funds prohibited — Trust account. [Effective on January 1, 2020.]

(a) *For purposes of this section:*

(1) “Travel promoter” means a person who sells, provides, furnishes, contracts for, or arranges travel services for a fee, commission, or other valuable consideration. “Travel promoter” does not include a transportation carrier if the carrier provides, furnishes, contracts for, or arranges only transportation services that are directly provided by the transportation carrier as the substantial portion of the transportation carrier’s business; and

(2) *“Travel services” means arranging or booking vacation or travel packages, travel reservations, or travel accommodations.*

(b)(1) *A travel promoter shall not commingle in the same account or fund those funds that belong to the travel promoter or the travel promoter’s business entity with customer funds that are held for disbursement for payment of travel services.*

(2) *A travel promoter shall deposit into a trust account any funds the travel promoter receives from a customer for disbursement for payment of travel services.*

(c)(1) *Each travel promoter that conducts business in this state shall establish and maintain a separate general trust account in a state or national bank authorized by law to administer trust funds in this state.*

(2) *Funds required by subsection (b) to be deposited in a trust account must be identified or earmarked with an identifier unique to the customer or transaction for which the funds were deposited and are being held for disbursement.*

(d) *A violation of this section constitutes an unfair or deceptive act prohibited under § 47-18-104, and is punishable as provided in this part. Each act in violation of this section constitutes a separate violation.*

47-18-132. Billing for special healthcare service or costs of supplies, equipment, or other services provided by a healthcare facility. [Effective January 1, 2020.]

(a) *As used in this section:*

(1) *“Healthcare facility” means a hospital licensed under title 33 or 68;*

(2) *“Healthcare provider” or “provider” means a physician or other healthcare practitioner licensed or certified under title 63 to perform specialty healthcare services consistent with their scope of practice under state law; and*

(3) *“Specialty healthcare service” means anesthesia, pathology, radiology, and emergency services.*

(b) *A hospital shall not include in any billing statement to a patient any language that indicates or implies that a charge is for a specialty healthcare service that was rendered by a healthcare provider unless:*

(1) *The charge is described in a manner that provides the patient with sufficient information to identify the healthcare provider or the specialty healthcare service rendered; and*

(2)(A) *The costs of any supplies, equipment, or other services rendered to the patient by or at the hospital are excluded from the amount charged for the healthcare provider or the specialty healthcare service rendered; or*

(B) *The billing statement includes language or is accompanied by a notice to inform the patient that billed amounts for services do not include charges for healthcare providers who are not employed by the healthcare facility, including anesthesiologists, emergency physicians, pathologists, and radiologists.*

(c) *If a healthcare provider includes a charge in a billing statement to a patient for the costs of any supplies, equipment, or other services provided by a healthcare facility, then the healthcare provider shall include with the billing statement language or an accompanying notice to inform the patient that those charges are included.*

(d) *A violation of subsection (b) or (c) constitutes a violation of this part as an*

692

unfair or deceptive act or practice affecting the conduct of trade or commerce and is subject to the penalties and remedies as provided by this part. Each act in violation of subsection (b) or (c) constitutes a separate violation of this part.

47-18-314. Compliance exemption — Requirements.

(a) It is an offense to accept a down payment for a health club agreement in excess of thirty percent (30%) of the total cost of the agreement unless, as of January 1 of the year in which the health club agreement was entered into:

(1) The health club has a net worth in excess of two hundred fifty thousand dollars (\$250,000) per location where health club services or facilities are provided; and

(2) The health club has operated under substantially the same ownership and control for at least five (5) years.

(b) For the purpose of calculating net worth as provided in subsection (a), the following are excluded:

(1) Assets that represent prepayment for future services; and

(2) Accounts receivable due from health club members for future services.

(c) Any health club claiming the exemption pursuant to subsection (a) shall maintain written documentation establishing proof that the requirements of subsection (a) have been met as of January 1 of each year the exemption is claimed. Such proof shall be retained for a minimum of five (5) years from the end of the year in which the exemption is claimed. This documentation shall be made available for examination upon request of any law enforcement agency or the attorney general. A refusal to provide such documentation shall constitute a violation of this part.

47-18-317. Violations — Penalties and remedies.

(a) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act of 1977, compiled in part 1 of this chapter.

(b) For the purpose of application of the Tennessee Consumer Protection Act of 1977, any violation of this part shall be construed to constitute an unfair or deceptive act or practice affecting the conduct of any trade or commerce and subject to the penalties and remedies as provided by that act.

(c) As part of any action brought pursuant to this section, the attorney general shall certify that the division of consumer affairs complied with § 47-18-5002(2) unless the attorney general determines that the purposes of this part will be substantially impaired by delaying legal proceedings.

47-18-318. Surety bond — Applicability — Filing of audited financial statement.

(a) In order to provide a degree of protection to members of health clubs, each health club shall post a bond in an amount of twenty-five thousand dollars (\$25,000) for each location doing business in this state. The bond shall be made with a bond issued by a corporate surety authorized to do business in this state.

(b) The bond shall be maintained for two (2) years following the date on which the health club location ceases to conduct business in this state.

(c) In an action brought by the attorney general and reporter pursuant to part 1 of this chapter, the attorney general and reporter shall have the right to

request that the total amount of the bond posted by the health club be awarded to the state for consumer restitution. Any person who has entered into a health club agreement that is not fulfilled by the operator may make a claim against the bond.

(d) This section shall not apply to any health club or health club operator that has, for at least seven (7) consecutive years, operated under substantially the same ownership and control. Any health club claiming the exemption pursuant to this subsection (d) shall maintain documentation as of January 1 of each year in which the exemption is claimed demonstrating the required period of ownership. Such proof shall be retained for a period of at least five (5) years from the end of the year in which the exemption is claimed. This documentation shall be made available for examination upon request of any law enforcement agency or the attorney general. A refusal to provide such documentation shall constitute a violation of this part.

(e)(1) In lieu of the surety bond required in this section, a health club may maintain on file a current audited financial statement prepared by a certified public accountant licensed in this state that demonstrates that either the health club or the health club operator has a financial net worth of at least ten million dollars (\$10,000,000) available to satisfy any claims.

(2) Any health club claiming the exemption pursuant to this subsection (e) shall maintain documentation as of January 1 of each year in which the exemption is claimed demonstrating at least ten million dollars (\$10,000,000) available to satisfy any claims. Such proof shall be retained for a period of at least five (5) years from the end of the year in which the exemption is claimed. This documentation shall be made available for examination upon request of any law enforcement agency or the attorney general. A refusal to provide such documentation shall constitute a violation of this part.

47-18-402. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Attorney general" means the attorney general and reporter, or the attorney general and reporter's designee;

(2) "Audiovisual work" means the electronic or physical embodiment of motion pictures, television programs, video or computer games, or other audiovisual presentations that consist of related images that are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, electronic equipment, a computer program, software, or system, together with accompanying sounds, if any;

(3) "Commercial recording or audiovisual work" means a recording or audiovisual work whose owner, assignee, authorized agent, or licensee has made or intends to make available for sale, rental, performance, or exhibition to the public under license but does not include an excerpt consisting of less than substantially all of a recording or audiovisual work. A recording or audiovisual work may be commercial, regardless of whether a person who electronically disseminates it seeks commercial advantage or private financial gain from that dissemination;

(4) "Consumer" means any natural person who seeks or acquires by purchase, rent, lease, assignment, award by chance, or other disposition, any goods, services, property, tangible or intangible, real, personal or mixed, and

any other article, commodity, or thing of value wherever situated or any person who purchases or to whom is offered for sale a franchise or distributorship agreement or any similar type of business opportunity;

(5) [Deleted by 2019 amendment.]

(6) “Electronic dissemination” means initiating a transmission of, making available, or otherwise offering, a commercial recording or audiovisual work for distribution on the Internet or other digital network, regardless of whether someone else had previously electronically disseminated the same commercial recording or audiovisual work;

(7) “Goods” means any tangible chattels leased, bought, or otherwise obtained for use by an individual primarily for personal, family, or household purposes or a franchise, distributorship agreement, or similar business opportunity;

(8) “Internet” means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol (IP), or its subsequent extension, and is able to support communications using the Transmission Control Protocol/Internet Protocol (TCP/IP) suite, or its subsequent extensions, or other IP-compatible protocols, and that provides, uses, or makes accessible, either publicly or privately, high level services layered on communications and related infrastructure;

(9) “Location readily accessible” means a place that is conspicuous, not hidden and capable of being reached quickly and easily by the general public. A web page or screen entitled “about”, “about us”, “contact”, “contact us”, “home”, or “information”, or other place on a web site or online service commonly used to display identifying information to consumers, shall be deemed a “location readily accessible” for purposes of this part;

(10) “Online service” means any service available over the Internet, or that connects to the Internet or a wide-area network;

(11) “Person” means a natural person, consumer, individual, governmental agency, partnership, corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized;

(12) “Physical address” means the mailing address, including a zip code, that details the actual location of a person or entity, but does not include a post office box or email address;

(13) “Recording” means the electronic or physical embodiment of any recorded images, sounds, or images and sounds, but does not include audiovisual works or sounds accompanying audiovisual works;

(14) “Services” means any work, labor, or services including services furnished in connection with the sale or repair of goods or real property or improvements thereto;

(15) “Tennessee Consumer Protection Act” means the Tennessee Consumer Protection Act of 1977, compiled in part 1 of this chapter, and related statutes. Related statutes specifically include any statute that indicates within the law, regulation, or rule that a violation of that law, regulation, or rule is a violation of the Tennessee Consumer Protection Act of 1977;

(16) “Web page” means a location that has a single uniform resource locator or other single location with respect to the Internet; and

(17) “Web site” means a set of related web pages served from a single web domain.

47-18-404. Persons subject to part to disclose name, address and telephone number on website — Issuance of subpoena to suspected violators.

(a) It shall be unlawful for any person who is subject to this part under § 47-18-403 to fail to clearly and conspicuously disclose their true and correct name, physical address, and telephone number on their website or online service in a location readily accessible to users of, or visitors to, the website or online service.

(b)(1) If the attorney general cannot, after reasonable investigation, ascertain the information that is required by subsection (a), the attorney general, or a district attorney general of a county in which or from which a violation of subsection (a) is suspected to have been made, at the request of the attorney general, and upon reasonable cause, may issue in writing and cause to be served one (1) or more subpoenas requiring the production of the suspected violator's legal name under which such person conducts business, and the person's physical address and telephone number.

(2) A party shall not disclose any information pursuant to a subpoena other than the suspected violator's legal name under which such person conducts business, and the person's physical address and telephone number.

(3) At any time before the return date specified on the subpoena, the person summoned may, in the chancery court of the county in which the person resides or does business, petition for an order modifying or quashing the subpoena, or a prohibition of disclosure by a court.

(4) If no case or proceeding arises from the production of records or other documentation pursuant to this section within a reasonable time after those records or documentation are produced, the attorney general or district attorney general shall either destroy the records and documentation or return them to the person who produced them.

(5) A subpoena issued under this section may be served by any person who is authorized to serve process under the Tennessee Rules of Civil Procedure and such subpoena shall be served in accordance with such rules.

47-18-407. Applicability of Tennessee Consumer Protection Act of 1977 — Action by attorney general.

(a) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act of 1977.

(b) For the purpose of application of the Tennessee Consumer Protection Act of 1977, any violation of this part shall be construed to constitute an unfair or deceptive act or practice affecting trade or commerce and subject to the penalties and remedies as provided in the Tennessee Consumer Protection Act of 1977, in addition to the penalties and remedies set forth in this part.

(c) If the attorney general has reason to believe that any person has violated this part, then the attorney general may institute a proceeding under this chapter.

47-18-501. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Attorney general" means the attorney general and reporter, or the attorney general and reporter's designee;

696

(2) “Business day” means any day other than a Saturday, Sunday, or legal holiday;

(3) “Buyer” or “member” means any status by which any natural person is entitled to any of the benefits of a discount buying organization;

(4) “Buying service,” “buying club,” or “club” means any person, corporation, partnership, unincorporated association, or other business enterprise operating for profit within the state of Tennessee, the primary purpose of which is to provide benefits to members from the cooperative purchase of services or merchandise;

(5) “Contract” means any oral or written agreement by which one becomes a member of a club; and

(6) [Deleted by 2019 amendment.]

(7) “Prepayment” means any payment greater than fifty dollars (\$50.00) for service, merchandise, or membership made before the service is rendered. Money received by a club from a financial institution upon assignment of a contract shall be considered prepayment when and to the extent the member is required to make prepayments to the financial institution pursuant to the contract.

47-18-506. Exemptions.

This part shall not apply to:

(1) Any buyers club in which the total consideration paid by each buyer in any manner whatsoever under the contract for discount buying services does not exceed fifty dollars (\$50.00) over the expected life of the contract;

(2) Any buyers club in which persons receive discount buyer services incidentally as part of a package of services provided to or available to such individuals on account of their membership in such organization, which is not organized for the profit of any person or corporation or which does not have as one (1) of its primary purposes or businesses the provision of discount buying services; and

(3) Any buyers club which files with the attorney general a declaration, executed under penalty of perjury by the owner or manager of such club, stating that the club does not require or, in the ordinary course of business, receive prepayment.

47-18-603. Part definitions.

As used in this part, unless the context otherwise requires:

(1) “Advertisement” means a commercial message in any medium that aids, promotes, or assists directly or indirectly a rental-purchase agreement;

(2) “Attorney general” means the attorney general and reporter, or the attorney general and reporter’s designee;

(3) “Cash price” means the price at which the lessor would have sold the property to the consumer for cash on the date of the rental-purchase agreement;

(4) “Consumer” means a natural person who rents personal property under a rental-purchase agreement;

(5) “Consummation” means the time a consumer becomes contractually obligated on a rental-purchase agreement;

(6) [Deleted by 2019 amendment.]

(7) “Lessor” means a person who, in the ordinary course of business, regularly leases, offers to lease, or arranges for the leasing of property under

a rental-purchase agreement; and

(8) “Rental-purchase agreement” means an agreement for the use of personal property by a natural person primarily for personal, family, or household purposes, for an initial period of four (4) months or less (whether or not there is any obligation beyond the initial period) that is automatically renewable with each payment and that permits the consumer to become the owner of the property. “Rental-purchase agreement” shall not be construed to be, nor be governed by, any of the following:

(A) A lease or agreement which constitutes a “credit” sale as defined in 12 CFR 226.2(a)(16) and § 1602(g) of the Truth In Lending Act, compiled in 15 U.S.C. § 1601 et seq.;

(B) A lease which constitutes a “consumer lease” as defined in 12 CFR 213.2(e);

(C) Any lease for agricultural, business, or commercial purposes;

(D) Any lease made to an organization;

(E) A lease or agreement which constitutes a “retail installment contract” or “retail installment transaction” as defined in § 47-11-102;

(F) A “security interest” as defined in § 47-1-201; or

(G) A “home solicitation sale” as defined in § 47-18-702.

47-18-609. Renegotiations — Extensions.

(a) A renegotiation occurs when an existing rental-purchase agreement is satisfied and replaced by a new lease agreement undertaken by the same consumer. A renegotiation is a new agreement requiring new disclosures. However, events such as the following shall not be treated as renegotiations:

(1) The addition or return of property in a multiple item agreement or the substitution of lease property, if in either case the average payment allocable to a payment period is not changed by more than twenty-five percent (25%);

(2) A deferral or extension of one (1) or more periodic payments, or portions of a periodic payment;

(3) A reduction in charges in the agreement;

(4) An agreement involving a court proceeding; and

(5) Any other event described in regulations prescribed by the attorney general.

(b) No disclosures are required for any extension of a rental-purchase agreement.

47-18-613. Liability — Good faith defenses.

(a) A lessor is not liable under § 47-18-612 for a violation of this part if the lessor shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, even though the lessor maintained procedures reasonably adapted to avoid such an error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to requirements of this title is not a bona fide error.

(b) A lessor is not liable under this part for any act done or omitted in good faith in conformity with any rule, regulation, or interpretation promulgated by the attorney general or by an official duly authorized by the attorney general. This rule applies even if, after the act or omission has occurred, the rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

47-18-1526. Telephone solicitations prohibited.

(a) As used in this section, unless the context otherwise requires:

(1) "Attorney general" means the attorney general and reporter, or the attorney general and reporter's designee;

(2) "Consumer" means an actual or prospective purchaser, lessee, or recipient of consumer goods or services;

(3) "Telephone solicitor" means any natural person, firm, organization, partnership, association or corporation, or a subsidiary or affiliate thereof, doing business in this state, who makes or causes to be made a telephonic sales call, including, but not limited to, calls made by use of automated dialing or recorded message devices;

(4) "Telephonic sales call" means a call made by a telephone solicitor to a consumer, for the purpose of soliciting a sale of any consumer goods or services, or for the purpose of soliciting an extension of credit for consumer goods or services, or for the purpose of obtaining information that will or may be used by the solicitor or a third party for the direct solicitation of a sale of consumer goods or services or an extension of credit for such purposes or in connection with prizes, gifts or awards presentations; and

(5) "Unsolicited telephonic sales call" means a telephonic sales call other than a call made:

(A) In response to an express request of the person called;

(B) Primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call; or

(C) To any person with whom the telephone solicitor has a prior or existing business relationship.

(b) No telephone solicitor shall make or cause to be made any unsolicited telephonic sales call to any residential, mobile or telephonic paging device telephone number unless such person or entity has instituted procedures for maintaining a list of persons who do not wish to receive telephone solicitations made by or on behalf of that person or entity, in compliance with 47 CFR 64 or 16 CFR 310.

(c)(1) No telephonic sales calls shall be made by a telephone solicitor to a consumer from a telephone if the telephone number of the caller is unlisted, or if the telephone solicitor is using telephone equipment which blocks the caller ID function on the telephone or telephone equipment of the number dialed so that the telephone number of the caller is not displayed on the telephone or telephone equipment which is technically capable of displaying the telephone number of the caller.

(2)(A) In addition to any other penalty provided by this section, it is an offense for a person owning or directing the use of telephones or telephone equipment in violation of subdivision (c)(1) to use or intentionally employ or direct a telephone solicitor to use, or to contract for the use of, telephones or telephone equipment to make telephonic sales calls in violation of subdivision (c)(1).

(B) A violation of this subdivision (c)(2) is a Class A misdemeanor, punishable only by a fine not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(d) The attorney general shall investigate any complaints received concerning violations of this section pursuant to § 47-18-106. The civil penalty shall

not exceed one thousand dollars (\$1,000) per violation. This civil penalty may be recovered in any action brought under this part by the attorney general, or the attorney general may terminate any investigation or action upon agreement by the person to pay a stipulated civil penalty. The attorney general or the court may waive any civil penalty if the person has previously made full restitution or reimbursement or has paid actual damages to the consumers who have been injured by the violation. It shall be an affirmative defense in any action brought under this subsection (d) that the defendant has established and implemented reasonable practices and procedures to effectively prevent telephone solicitations in violation of the regulations established in this section.

47-18-1602. Part definitions.

For purposes of this part:

- (1) "Athlete" means an individual whom a player selects for the player's imaginary teams for purposes of playing a fantasy sports contest;
- (2) "Auto draft" means athlete selection offered by a fantasy sports operator that does not involve any input or control by a player;
- (3) "Beginning player" means any player who has entered fewer than fifty-one (51) contests offered by a single fantasy sports operator;
- (4) "Consumer" has the same meaning as defined in § 47-18-103;
- (5) "Entry fee" means any valuable consideration, including, but not limited to, cash or a cash equivalent, that a fantasy sports operator requires in order to participate in a fantasy sports contest;
- (6) "Fantasy sports contest":
 - (A) Means an online simulated game:
 - (i) In which players are subject to an entry fee to assemble imaginary teams of athletes;
 - (ii) In which players are offered an award or prize made known to the players in advance of the online simulated game; and
 - (iii) The winning outcome of which reflects in part the relative knowledge and skill of the participants and is determined predominantly by the accumulated statistical results of the performance or finishing position of athletes in underlying amateur or professional competitions; and
 - (B) Does not include:
 - (i) A contest in which the operator allows the players to auto draft athletes or to choose between pre-selected teams of athletes;
 - (ii) A contest that offers or awards a prize to the winner of, or athletes in, the underlying competition itself; or
 - (iii) A contest where the winning outcome is based on the score, point spread, or any performance or performances of any single actual team or combination of teams or solely on any single performance of an athlete or participant in any single actual event;
- (7) "Fantasy sports contest platform" means any online method by which access to a fantasy sports contest is provided;
- (8) "Fantasy sports operator" means a person that offers fantasy sports contests through an online digital platform;
- (9) "Fantasy sports operator contractor" means any person or entity who works pursuant to an independent contract with a fantasy sports operator

700

and who has access to nonpublic portions of the fantasy sports operator's office, the fantasy sports operator's nonpublic computer network, or the fantasy sports operator's proprietary information that may affect how the fantasy sports contest is played;

(10) "Highly experienced player" means a person who has either:

(A) Entered more than five hundred (500) contests offered by a single fantasy sports operator; or

(B) Won more than five (5) fantasy sports prizes, and the total value of the prizes is two thousand five hundred dollars (\$2,500) or more;

(11) "Knowingly" means to have known or should have known;

(12) "Minor" means any person under eighteen (18) years of age;

(13) "Person" has the same meaning as defined in § 47-18-103;

(14) "Player" means a natural person or individual who participates in a fantasy sports contest offered by a fantasy sports operator;

(15) "Private contest" means a fantasy sports contest established among players known to each other and the terms and any prize of which are not established by a fantasy sports operator;

(16) "Prize" means a prize, award, incentive, promotion, or anything of value, including, but not limited to, money, contest credits, merchandise, or admission to another fantasy sports contest;

(17) "Script" means a list of commands that a fantasy-sports-related computer program can execute and that is created by players, or by third parties for the use of players, to automate processes on a fantasy sports contest platform; and

(18) "Tennessee consumer" means a consumer located in this state at the time the person enters a fantasy sports contest.

47-18-1702. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Attorney general" means the attorney general and reporter, or the attorney general and reporter's designee;

(2) "Candidate" means any person, whether employed or unemployed, seeking or entering into any arrangement for employment or change of employment through the services of an employment agency;

(3) [Deleted by 2019 amendment.]

(4) "Employer" means any person who engages or seeks to engage candidates for employment;

(5) "Employment agency" means any person who, for a fee paid by a candidate or other compensation provided by a candidate:

(A) Places or attempts to place candidates seeking employment where the fee is not paid by the employer;

(B) Recruits or attempts to recruit employees for employers seeking candidates where the fee is not paid by the employer; or

(C) Purports to have access to job leads or compiles and provides lists or information about available jobs, if no fee is charged to the majority of potential employers for inclusion in the listings, and if an office is maintained for the purpose of marketing job information to the public and providing customers with access to that information;

(6) "Fee" means anything of value paid or directed to be paid for the services of an employment agency; and

(7) “Person” means any individual, company, corporation, partnership, association or firm, including any officer, director or employee of a corporation.

47-18-1706. Investigators.

Whenever the attorney general has reason to believe that a person is engaging in, has engaged in, or may be about to engage in a violation of this part or has reason to believe it to be in the public interest to conduct an investigation to ascertain whether any person is engaging in, or has engaged in, or is about to engage in such act or practice, the attorney general may conduct an investigation in accordance with § 47-18-106.

47-18-1707. Enforcement actions.

(a) Whenever it appears to the attorney general that a person has engaged in or is about to engage in any act or practice constituting a violation of this part or any rule or order hereunder, the attorney general may, in the attorney general’s discretion, bring an action in the chancery court of any county in this state to enjoin the acts or practices and to enforce compliance with this part or any rule or order hereunder.

(b) Upon a proper showing, a permanent or temporary injunction, restraining order, writ of mandamus, discouragement or other proper equitable relief shall be granted.

(c) The court shall not require the attorney general to post a bond.

47-18-1802. Part definitions.

As used in this part, unless the context otherwise requires:

(1) “Attorney general” means the attorney general and reporter, or the attorney general and reporter’s designee;

(2) [Deleted by 2019 amendment.]

(3) “Food” means any nourishing substance intended to be eaten by human beings;

(4) “Manufacturer” means any person who manufactures, assembles or packages articles containing food of foreign origin. “Manufacturer” does not include wholesalers that repack fresh produce into smaller containers for sale to retail stores or retailers that repack fresh produce into tray-ready packs for sale to consumers; and

(5) “Person” means a natural person, individual, governmental agency, partnership, corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized.

47-18-1803. Administration.

The attorney general shall administer this part.

47-18-1805. Injunctive relief.

In addition to any other remedies, the attorney general is authorized to apply to the chancery court of Davidson County, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of

702

this part, irrespective of whether or not there exists an adequate remedy at law, without the necessity of posting a bond.

47-18-1806. Civil penalties.

The attorney general may seek and the court may impose a maximum civil penalty for a violation of this part of not more than ten thousand dollars (\$10,000). For purposes of this section, each unmarked or improperly marked article constitutes a separate violation of this part.

47-18-1807. Civil actions — Damages — Declaratory judgments — Costs.

(a) Any person who manufactures, assembles or packages articles containing food who has suffered or will suffer an ascertainable loss as a result of a violation of this part may commence a civil action against any manufacturer who is alleged to have violated or to be in violation of this part.

(b) The action may be brought in a court of competent jurisdiction in the county where any alleged sale took place, is taking place, or is about to take place, or in the county in which the alleged violator resides, has its principal place of business, conducts, transacts, or has transacted business, or, if the person cannot be found in any of the foregoing locations, in the county in which such person can be found.

(c) If the court finds that the violation was a willful or knowing violation, the court shall award three (3) times the actual damages sustained and provide such other relief as it considers necessary and proper.

(d) A person commencing a civil action under this section shall serve a copy of the action on the attorney general. In any action under this section, the attorney general, if not a party, may intervene as a matter of right at any time in the proceeding.

(e) Without regard to any other remedy or relief to which a person is entitled, anyone affected by a violation of this part may bring an action to obtain a declaratory judgment that the part or practice violates this part and to enjoin the person who has violated, is violating, or who is otherwise likely to violate this part; provided, that such action shall not be filed or shall not be continued if the attorney general has commenced or intervened in a proceeding pursuant to § 47-18-1805.

(f) The court, in issuing any final order in any action brought pursuant to this section, shall award costs of litigation (including reasonable attorney fees) to the prevailing party. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Tennessee Rules of Civil Procedure.

47-18-2102. Definitions.

As used in this part and in the Tennessee Consumer Protection Act of 1977, compiled in part 1 of this chapter, unless the context otherwise requires:

(1) "Ascertainable loss" means an identifiable deprivation, detriment or injury arising from the identity theft or from any unfair, misleading or deceptive act or practice even when the precise amount of the loss is not known. Whenever a violation of this part has occurred, an ascertainable loss shall be presumed to exist;

(2) “Attorney general” means the office of the Tennessee attorney general and reporter;

(3) “Consumer report” has the meaning ascribed to that term by 15 U.S.C. § 1681a(d);

(4) “Consumer reporting agency” has the meaning ascribed to that term by 15 U.S.C. § 1681a(f);

(5) “Financial document” means any credit card, debit card, check or checking account information or number, savings deposit slip or savings account information or number, or similar financial account or account number, including but not limited to, a money market account, certificate of deposit, or other type of interest generating account with a bank, savings and loan or credit union account, or any other financial institution, mutual fund account, 401K account, individual retirement account, retirement account, or other stock account information, savings bond or other bond, credit line, equity line or other line of credit which the possessor of the account has the right to draw against;

(6) “Identification documents” means any card, certificate or document which identifies or purports to identify the bearer of such document, whether or not intended for use as identification, and includes, but is not limited to, documents purporting to be a driver license, nondriver identification cards, birth certificates, marriage certificates, divorce certificates, passports, immigration documents, social security cards, employee identification cards, cards issued by the government to provide benefits of any sort, health care benefit cards, or health benefit organization, insurance company or managed care organization cards for the purpose of identifying a person eligible for services;

(7) “Identity theft” means:

(A) Obtaining, possessing, transferring, using or attempting to obtain, possess, transfer or use, for unlawful economic benefit, one (1) or more identification documents or personal identification numbers of another person; or

(B) Otherwise obtaining, possessing, transferring, using or attempting to obtain, possess, transfer or use, for unlawful economic benefit, one (1) or more financial documents of another person;

(8) “Person” means a natural person, consumer, individual, governmental agency, partnership, corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized;

(9) “Personal identification number” means any number that is assigned by the government to identify a particular person, including, but not limited to, social security number, federal tax payer identification number, Medicaid, Medicare or TennCare number which identifies a particular person eligible for benefits, any number assigned to a person as part of a licensure or registration process, such as a board of professional responsibility number, driver license number and passport number and any number assigned by an insurance company, health maintenance organization, managed care organization or other health benefit organization, for the purposes of identifying a particular person eligible for services; and

(10) “Tennessee Consumer Protection Act” means the Tennessee Consumer Protection Act of 1977, as amended, compiled in part 1 of this chapter and related statutes. Related statutes specifically include any statute that

indicates within the law, regulation or rule that a violation of that law, regulation or rule is a violation of the Tennessee Consumer Protection Act of 1977. Without limiting the scope of this definition, related statutes include, but are not limited to: § 47-18-120; part 3 of this chapter; part 5 of this chapter; Home Solicitations Sales Act of 1974, compiled in part 7 of this chapter; Tennessee Credit Services Businesses Act, compiled in part 10 of this chapter; Consumer Telemarketing Protection Act of 1990, compiled in part 15 of this chapter; Unsolicited Telefacsimile Advertising Act [repealed]; Tennessee Employment Agency Act, compiled in part 17 of this chapter; and Membership Camping Act, compiled in title 66, chapter 32, part 3.

47-18-2104. Private rights of action.

(a) Any party commencing a private action pursuant to this part must provide a copy of the complaint and all other initial pleadings to the attorney general and upon entry of any judgment, order or decree of the action, shall mail a copy of such judgment, order or decree to the attorney general within five (5) days of entry of the judgment, order or decree.

(b) A copy of any notice of appeal shall be served by the appellant upon the attorney general, who in the public interest may intervene.

(c) A private action to enforce any liability created under this part may be brought within two (2) years from the date the liability arises, except that where a defendant has concealed the liability to that person, under this part, the action may be brought within two (2) years after discovery by the person of the liability. No action brought by the attorney general shall be subject to the limitation of actions contained herein.

(d) In any private action commenced under this part, if the private party establishes that identity theft was engaged in willfully or knowingly, the court may award three (3) times the actual damages and may provide such other relief as it considers necessary and proper.

(e) The action may be brought in a court of competent jurisdiction in the county where the identity theft or unfair, deceptive or misleading act or practice took place, is taking place, or is about to take place, or in the county in which such person resides, has such person's principal place of business, conducts, transacts, or has transacted business, or, if the person cannot be found in any of the foregoing locations, in the county in which such person can be found.

(f) Without regard to any other remedy or relief to which a person is entitled, anyone affected by a violation of this part may bring an action to obtain a declaratory judgment that the act or practice violates this part and to enjoin the person who has violated, is violating, or who is otherwise likely to violate this part; provided, that such action shall not be filed once the attorney general has commenced a proceeding pursuant to this part or the Tennessee Consumer Protection Act.

(g) Upon a finding by the court that a provision of this part has been violated, the court may award to the person bringing such action reasonable attorneys' fees and costs.

47-18-2105. Civil penalties and remedies.

(a)(1) Whenever the attorney general has reason to believe that a person has engaged in, is engaging in, or based upon information received from

another law enforcement agency, is about to engage in any unlawful act or practice under this part and that proceedings would be in the public interest, the attorney general may bring an action in the name of the state against the person to restrain by temporary restraining order, temporary injunction, or permanent injunction the use of such act or practice. Additionally, the state may request an asset freeze or any other appropriate and necessary orders against such person.

(2) As part of any action brought pursuant to subdivision (a)(1), the attorney general shall certify that the division of consumer affairs complied with § 47-18-5002(2) unless the attorney general determines that the purposes of this part will be substantially impaired by delaying legal proceedings.

(b) The action may be brought in the chancery or circuit court in Davidson County or in a court of competent jurisdiction where the alleged violation of this part, identity theft, unfair, misleading or deceptive act or practice took place or is about to take place or in the county in which the person resides, has the person's principal place of business, conducts, transacts or has transacted business or, if the person cannot be found, in any of the locations listed in this subsection (b), in the county in which the person can be found.

(c) The courts are authorized to issue orders and injunctions to restrain and prevent violations of this part or issue any other necessary or appropriate relief or orders. Such orders and injunctions shall be issued without bond to the state of Tennessee.

(d) Notwithstanding any other law, a violation of this part shall be punishable by a civil penalty of whichever of the following is greater: ten thousand dollars (\$10,000), five thousand dollars (\$5,000) per day for each day that a person's identity has been assumed or ten (10) times the amount obtained or attempted to be obtained by the person using the identity theft. This civil penalty is supplemental, cumulative and in addition to any other penalties and relief available under the Tennessee Consumer Protection Act, or other laws, regulations or rules.

(e) In any successful action commenced under this part, any ascertainable loss that a person has incurred as a result of a violation of this part, including, but not limited to, the identity theft or misleading, deceptive or unfair practices used to engage in violations of this part shall be recovered as restitution for each such person. The person shall also be awarded statutory interest on that ascertainable loss.

(f) In any successful action commenced by the attorney general under this part, the court shall also order reimbursement to the attorney general of the reasonable attorneys' fees, costs and expenses of the investigation and prosecution under this part.

(g) No court costs, litigation costs, discretionary costs or attorneys' fees shall be taxed or awarded against the state in an action commenced under this part or under the Tennessee Consumer Protection Act.

(h) Any knowing or willful violation of the terms of an injunction or order issued pursuant to this part in an action commenced by the attorney general shall be punishable by a civil penalty of not more than five thousand dollars (\$5,000) for each and every violation of the order recoverable by the state, in addition to any other appropriate relief, including, but not limited to, contempt sanctions and the awarding of attorneys' fees and costs to the state for any filings relating to violations of any order under this part.

(i) An order or judgment issued as a result of an action commenced by the

706

attorney general shall in no way affect individual rights of action which may exist independent of the recovery of money or property received under such order or judgment. If a particular person receives restitution as a result of an action commenced by the attorney general, those funds shall act only as a set-off against any award of money received in the person's private right of action proceedings.

47-18-2106. Violation of Tennessee Consumer Protection Act.

(a) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act.

(b) For the purpose of application of the Tennessee Consumer Protection Act, any violation of this part shall be construed to constitute an unfair or deceptive act or practice affecting trade or commerce and subject to the penalties and remedies as provided in that act, in addition to the penalties and remedies set forth in this part.

(c) If the attorney general has reason to believe that a person has violated this part, then the attorney general may institute a proceeding under this chapter.

47-18-2109. Notice to consumer regarding security freeze.

At any time that a Tennessee consumer is required to receive a summary of rights required by 15 U.S.C. § 1681g(d) of the federal Fair Credit Reporting Act, the Tennessee consumer shall also be provided with the following prominent, clear and conspicuous notice in at least twelve (12) point type:

**TENNESSEE CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY
FREEZE**

You have a right to place a "security freeze" on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. A security freeze must be requested in writing by certified mail or by electronic means as provided by a consumer reporting agency. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. If you are actively seeking a new credit, loan, utility, or telephone account, you should understand that the procedures involved in lifting a security freeze may slow your applications for credit. You should plan ahead and lift a freeze in advance of actually applying for new credit. When you place a security freeze on your credit report, you will be provided a personal identification number or password to use if you choose to remove the freeze on your credit report or authorize the release of your credit report for a period of time after the freeze is in place. To provide that authorization you must contact the consumer reporting agency and provide all of the following:

- (1) The personal identification number or password;
- (2) Proper identification to verify your identity; and
- (3) The proper information regarding the period of time for which the report shall be available.

A consumer reporting agency must authorize the release of your credit report no later than fifteen (15) minutes after receiving the above information.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have

an existing account, that requests information in your credit report for the purposes of fraud control, or reviewing or collecting the account. Reviewing the account includes activities related to account maintenance.

You should consider filing a complaint regarding your identity theft situation with the federal trade commission and the attorney general and reporter, either in writing or via their web sites.

You have a right to bring civil action against anyone, including a consumer reporting agency, who improperly obtains access to a file, misuses file data, or fails to correct inaccurate file data.

47-18-2111. Protected consumer security freeze.

(a) As used in this section:

(1) "Protected consumer" means:

(A) An individual who is under sixteen (16) years of age at the time a request for the placement of a security freeze under this section is made; or

(B) An incapacitated person for whom a guardian or conservator has been appointed pursuant to title 34;

(2) "Protected consumer security freeze" means:

(A) If a consumer reporting agency does not have a consumer report pertaining to the protected consumer, a restriction that:

(i) Is placed on the protected consumer's record in accordance with this section; and

(ii) Prohibits the consumer reporting agency from releasing the protected consumer's record except as provided in this section; or

(B) If a consumer reporting agency has a consumer report pertaining to the protected consumer, a restriction that:

(i) Is placed on the protected consumer's consumer report in accordance with this section; and

(ii) Prohibits the consumer reporting agency from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report except as provided in this section;

(3) "Record" means a compilation of information that:

(A) Identifies a protected consumer;

(B) Is created by a consumer reporting agency solely for the purpose of complying with this section; and

(C) Shall not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living;

(4) "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer;

(5) "Sufficient proof of authority":

(A) Means documentation that shows a representative has authority to act on behalf of a protected consumer; and

(B) Includes:

(i) An order issued by a court of law;

(ii) A lawfully executed and valid power of attorney; and

(iii) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf

- of a protected consumer; and
- (6) "Sufficient proof of identification":
 - (A) Means information or documentation that identifies a protected consumer or the protected consumer's representative; and
 - (B) Includes:
 - (i) A social security number or a copy of a social security card issued by the social security administration;
 - (ii) A certified or official copy of a certificate of birth issued by the entity authorized to issue the certificate of birth pursuant to title 68, chapter 3, part 3;
 - (iii) A copy of a valid driver license or any other government-issued identification; or
 - (iv) A copy of a bill, including a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and home address.
- (b) This section does not apply to:
 - (1) A person administering a consumer report monitoring subscription service to which:
 - (A) The protected consumer has subscribed; or
 - (B) The protected consumer's representative has subscribed on behalf of the protected consumer;
 - (2) A person providing the protected consumer or the protected consumer's representative with a copy of the protected consumer's consumer report on request of the protected consumer or the protected consumer's representative;
 - (3) A consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple consumer reporting agencies, and does not maintain a permanent database of credit information from which new consumer credit reports are produced; provided, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a consumer credit report by another consumer reporting agency;
 - (4) A check services or fraud prevention services company that issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments;
 - (5) A deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automatic teller machine abuse, or similar negative information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution; or
 - (6) A consumer reporting agency database or file that consists entirely of consumer information concerning, and used solely for:
 - (A) Criminal record information;
 - (B) Personal loss history information;
 - (C) Fraud prevention or detection;
 - (D) Employment screening; or
 - (E) Tenant screening.
- (c) A consumer reporting agency shall place a protected consumer security

freeze for a protected consumer if:

(1) The consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze under this section; and

(2) The protected consumer's representative:

(A) Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(B) Provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative;

(C) Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer; and

(D) Pays to the consumer reporting agency a fee as provided in subsection (j).

(d) If a consumer reporting agency does not have a consumer report pertaining to a protected consumer when the consumer reporting agency receives a request under subdivision (c)(2), the consumer reporting agency shall create a record for the protected consumer.

(e) Within thirty (30) days after receiving a request that meets the requirements of subdivision (c)(2), a consumer reporting agency shall place a protected consumer security freeze.

(f) Unless a protected consumer security freeze is removed in accordance with subsection (h) or (k), a consumer reporting agency shall not release the protected consumer's consumer report, any information derived from the protected consumer's consumer report, or any record created for the protected consumer.

(g) A protected consumer security freeze placed under subsection (e) shall remain in effect until:

(1) The protected consumer or the representative requests the consumer reporting agency to remove the protected consumer security freeze in accordance with subsection (h); or

(2) The protected consumer security freeze is removed in accordance with subsection (k).

(h) If a protected consumer or the representative wishes to remove a protected consumer security freeze, the protected consumer or the representative shall:

(1) Submit a request for the removal of the protected consumer security freeze to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(2) Provide to the consumer reporting agency:

(A) In the case of a request by the protected consumer:

(i) Proof that the sufficient proof of authority for the representative to act on behalf of the protected consumer is no longer valid; and

(ii) Sufficient proof of identification of the protected consumer; or

(B) In the case of a request by the representative:

(i) Sufficient proof of identification of the protected consumer and the representative; and

(ii) Sufficient proof of authority to act on behalf of the protected consumer; and

(3) Pay to the consumer reporting agency a fee as provided in subsection

710

(j).

(i) Within thirty (30) days after receiving a request that meets the requirements of subsection (h), the consumer reporting agency shall remove the protected consumer security freeze.

(j)(1) Except as provided in subdivision (j)(2), a consumer reporting agency shall not charge any fee for any service performed under this section.

(2) A consumer reporting agency may charge a reasonable fee, not exceeding ten dollars (\$10.00), for each placement or removal of a protected consumer security freeze.

(3) Notwithstanding subdivision (j)(2), a consumer reporting agency shall not charge any fee under this section if:

(A) The protected consumer's representative:

(i) Has obtained a police report of alleged identity fraud as described in § 39-14-150, and the protected consumer is the alleged victim; and

(ii) Provides a copy of the police report to the consumer reporting agency; or

(B) A request for the placement or removal of a protected consumer security freeze is for a protected consumer who is under sixteen (16) years of age at the time of the request and the consumer reporting agency has a consumer report pertaining to the protected consumer.

(k) A consumer reporting agency may remove a protected consumer security freeze or delete a record of a protected consumer if the protected consumer security freeze was placed, or the record was created, based on a material misrepresentation of fact by the protected consumer or the representative.

(l) If a consumer reporting agency negligently violates subsection (f) by releasing credit information that has been placed under a protected consumer security freeze, the affected protected consumer and representative shall be entitled to all remedies set out in § 47-18-2108 in addition to any other remedies provided for by law.

(m) [Deleted by 2019 amendment.]

(n) With regard to security freezes as described in this section, this section supersedes § 47-18-2108.

47-18-2304. Action for injunctive relief and civil penalty by attorney general and reporter.

(a) The attorney general and reporter may bring an action against a person who violates § 47-18-2302(a) to enjoin further violations and to recover a civil penalty of up to thirty thousand dollars (\$30,000) per violation.

(b)(1) Any civil penalty collected pursuant to this section shall be paid into the general fund of the state.

(2) The prevailing party is entitled to reasonable attorney's fees, court costs, and expenses; provided, that no court costs shall be taxed against the attorney general and reporter or this state in actions commenced under this section.

(c) Jurisdiction for an action brought pursuant to this section shall be in the chancery or circuit court of Davidson County.

47-18-2404. Notices and obligations — Application — Damages.

(a)(1) Any solicitation to lend money to a person for the consolidation or payment of other indebtedness which will result in that person's owner-

occupied residence becoming collateral or security for the loan or payment of money shall clearly state, in bold face type at least as large as any used in the solicitation otherwise, or by a separate clearly stated written notice, in bold face type at least ten (10) points, the following:

(A) Failure to make timely payments or to repay the loan will result in the borrower's home being subject to foreclosure; and

(B) [Deleted by 2019 amendment.]

(2) Such solicitation shall, in like manner, state either one (1) of the following, as appropriate:

(A) It is the obligation of the lender to make payments to prior lenders;

or

(B) It is the obligation of the borrower to make payments to prior lenders.

(b) This section shall apply to all solicitations, whether made through the mails, in person, by telephone, fax, or electronically, or through any other agency or medium to a resident of the state. If the solicitation is made in person or by telephone, then the person making the solicitation shall clearly express the notices and obligations required to be given under subdivisions (a)(1) and (2).

(c) Failure to comply with this section shall subject the lender to damages up to three (3) times the amount of actual damages pursuant to § 47-18-109.

(d) The notices and obligations described in subsection (a) shall be clearly expressed in any debt consolidation contract or loan agreement consolidating such loans, in bold face type of at least ten (10) points, in immediate proximity to the space reserved for the signature of the borrower.

(e) This section shall not apply to any state or national bank, credit union, savings and loan, or to any subsidiary or affiliate of any such state or national bank, credit union, savings and loan or any person or entity licensed by or subject to regulation by the department of financial institutions.

47-18-3001. Part definitions.

As used in this part:

(1) "Legal advertisement" means a solicitation of legal services through television; radio; internet, including a domain name; newspaper or other periodical; outdoor display; or other written, electronic, or recorded communication;

(2) "Person" means an individual or legal entity that advertises legal services or that identifies potential clients for attorneys or law firms;

(3) "Protected health information" has the meaning given that term in 45 C.F.R. § 160.103; and

(4) "Solicit" means offering to provide legal services by print; video or audio recording; or electronic communication or by personal, telephone, or real-time electronic contact.

47-18-3002. Prohibitions on legal advertisement.

(a) A person shall not do any of the following in a legal advertisement:

(1) Fail to disclose at the beginning of any recorded advertisement or display in a conspicuous location on any printed or electronic written legal advertisement that the legal advertisement is a paid advertisement for legal services;

712

(2) Present a legal advertisement as a “medical alert,” “health alert,” “consumer alert,” “public service announcement,” or other similar language;

(3) Display the logo of a federal or state government agency in a manner that suggests an affiliation with or the sponsorship by that agency;

(4) Use the word “recall” to refer to a product that has not been recalled by a government agency or through an agreement between a manufacturer and government agency;

(5) Fail to identify the person responsible for the legal advertisement; or

(6) Fail to identify the attorney or law firm that will represent clients, or to disclose that cases may be referred to another attorney or law firm to represent clients if the sponsor of the legal advertisement does not represent persons responding to the legal advertisement.

(b) A person shall not use a legal advertisement to solicit clients who may allege an injury from a prescription drug or medical device approved, cleared, or the subject of a drug monograph authorized by the United States food and drug administration unless the legal advertisement also includes the information required in this section.

(c) A legal advertisement soliciting clients who may allege an injury from a prescription drug approved, cleared, or the subject of a drug monograph authorized by the United States food and drug administration must:

(1) Include the following warning: “Do not stop taking a prescribed medication without first consulting with your doctor. Discontinuing a prescribed medication without your doctor’s advice can result in injury or death.”; and

(2) Disclose that the drug or medical device remains approved by the United States food and drug administration, unless the product has been recalled by a government agency or through an agreement between a manufacturer and government agency.

47-18-3003. Prohibited uses of protected health information for purpose of soliciting individual for legal services.

(a) A person shall not use, cause to be used, obtain, sell, transfer, or disclose protected health information to another person for the purpose of soliciting an individual for legal services without written authorization from the individual who is the subject of the information.

(b) In addition to any other remedy provided by law:

(1) A person who willfully and knowingly uses, causes to be used, obtains, sells, transfers, or discloses protected health information in violation of this section commits a Class A misdemeanor, punishable by a fine of one thousand dollars (\$1,000), imprisonment, or both; and

(2) A person who violates this section with the intent to use, cause to be used, obtain, sell, transfer, or disclose protected health information for the purpose of financial gain commits a Class C felony, punishable by a fine not to exceed two hundred fifty thousand dollars (\$250,000), imprisonment of not less than three (3) years nor more than ten (10) years, or both.

(c) This section does not apply to the use or disclosure of protected health information to an individual’s legal representative in the course of any judicial or administrative proceeding, or as otherwise permitted or required by law.

47-18-3004. Requirements for words and statements and disclosures.

(a) Any words or statements required by this section to appear in a legal

advertisement must be presented clearly and conspicuously.

(b) Written disclosures must be clearly legible and, if televised or displayed electronically, displayed for a sufficient time to enable a viewer to easily see and fully read the disclosure.

(c) Spoken disclosures must be plainly audible and clearly intelligible.

47-18-3005. Violations — Investigative and enforcement authority.

(a) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act of 1977, compiled in part 1 of this chapter. Any violation of this part constitutes an unfair or deceptive act or practice affecting trade or commerce and is subject to the penalties and remedies as provided in the Tennessee Consumer Protection Act of 1977, in addition to the penalties and remedies in this part.

(b) The attorney general and reporter has all of the investigative and enforcement authority that the attorney general and reporter has under the Tennessee Consumer Protection Act of 1977 relating to alleged violations of this part. The attorney general and reporter may institute any proceedings involving alleged violations of this part in Davidson County circuit or chancery court or any other venue otherwise permitted by law.

(c) Costs of any kind or nature cannot be taxed against the attorney general and reporter or the state in actions commenced under this part.

47-18-3006. Effect of part.

Nothing in this part:

(1) Limits or otherwise affects the authority of the Tennessee Supreme Court to regulate the practice of law, enforce the Rules of Professional Conduct, or discipline persons admitted to the bar; or

(2) Creates or implies liability on behalf of a broadcaster who holds a license for over-the-air terrestrial broadcasting from the federal communications commission, or against a cable operator as defined in 47 U.S.C. § 522(5).

47-18-5001. Office of the attorney general and reporter — Director of consumer affairs.

(a) There is created a division of consumer affairs in the office of the attorney general and reporter.

(b) The division of consumer affairs is headed by a director of consumer affairs who is appointed by, and serves at the pleasure of, the attorney general and reporter.

47-18-5002. Power to employ personnel.

The attorney general and reporter has the power to employ such personnel as may be necessary and appropriate to accomplish the purposes of this chapter, and the attorney general and reporter, or the attorney general's designee, shall:

(1) Serve as the central coordinating agency for receiving complaints by Tennessee consumers or about Tennessee businesses regarding unfair or deceptive acts or practices;

(2) Provide copies to, or otherwise notify, the persons identified in the complaints as engaging in unfair or deceptive practices and allowing them

an opportunity to respond, within a reasonable time, to the division with, if appropriate, a proposal to resolve the complaint. Upon receiving a response, the division may share the response with the complainant and may facilitate additional communication between the person identified in the complaint and the complainant in an effort to encourage a mutually agreeable resolution;

(3) Report annually to the general assembly on the activities of the division. The report shall include, but not be limited to, a statement of the investigatory and enforcement procedures and policies of the division, as well as a statement of the number of complaints filed and of investigations or enforcement proceedings instituted and of their disposition. The report shall not identify any person who has not been otherwise publicly identified in enforcement proceedings unless such person consents to identification. The report may include recommendations for proposed legislation designed to remedy specific unfair or deceptive acts or practices. Pursuant to the reporting requirements of this subdivision (3), the director of consumer affairs appointed pursuant to § 47-18-5001 shall provide a written report and testify annually to the commerce and labor committee of the senate and the consumer and human resources committee of the house of representatives. The reports made pursuant to this subdivision (3) must be submitted no later than February 1 of each year;

(4) Lend assistance to any district attorney general who elects to criminally prosecute any person for any criminal act or practice directed against the consuming public; and

(5) Promote consumer education and inform the public of policies, decisions, and legislation affecting consumers.

47-18-5003. Plan to receive and disseminate on attorney general and reporter's website reports of scams, schemes, swindles, and other frauds that target adults.

The director shall develop and implement a plan to receive and disseminate on the attorney general and reporter's website reports of scams, schemes, swindles, and other frauds that target adults, as defined in § 71-6-102.

47-18-5202. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Ascertainable loss" means an identifiable deprivation, detriment or injury arising from the identity theft or from any unfair, misleading or deceptive act or practice, even when the precise amount of the loss is not known. Whenever a violation of this part has occurred, an ascertainable loss shall be presumed to exist;

(2) "Attorney general" means the attorney general and reporter, or the attorney general and reporter's designee;

(3) "Electronic mail message" means a message sent to a unique destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox, commonly referred to as the "local part," and a reference to an Internet domain, commonly referred to as the "domain part," whether or not displayed, to which an electronic message can be sent or delivered;

(4) "Identification documents" means any card, certificate or document that identifies, or purports to identify, the bearer of such document, whether

or not intended for use as identification, and includes, but is not limited to, documents purporting to be driver licenses, nondriver identification cards, birth certificates, marriage certificates, divorce certificates, passports, immigration documents, social security cards, employee identification cards, cards issued by the government to provide benefits of any sort, health care benefit cards, or health benefit organization, insurance company or managed care organization cards for the purpose of identifying a person eligible for services;

(5) “Identifying information” means, with respect to an individual, any of the following:

- (A) Social security number;
- (B) Driver license number;
- (C) Bank account number;
- (D) Credit card or debit card number;
- (E) Personal identification number (PIN);
- (F) Biometric data;
- (G) Private medical information (PMI);
- (H) Fingerprints;
- (I) Account password; or

(J) Any other piece of information that can be used to access an individual’s financial accounts or obtain identification, act as identification, or obtain goods or services;

(6) “Internet” means the global information system that is logically linked together by a globally unique address space based on the Internet protocol (IP), or its subsequent extensions, and that is able to support communications using the Transmission Control Protocol/Internet Protocol (TCP/IP) suite, or its subsequent extensions, or other IP-compatible protocols, and that provides, uses, or makes accessible, either publicly or privately, high level services layered on communications and related infrastructure;

(7) “Person” means a natural person, consumer, individual, governmental agency, partnership, corporation, trust, estate, incorporated or unincorporated association, and any other legal or commercial entity however organized;

(8) “Tennessee Consumer Protection Act” means the Tennessee Consumer Protection Act of 1977, compiled in part 1 of this chapter and related statutes. Related statutes specifically include any statute that indicates within the law, regulation or rule that a violation of that law, regulation or rule is a violation of the Tennessee Consumer Protection Act. Without limiting the scope of this subdivision (8), related statutes include, but are not limited to, the Membership Camping Act, compiled in title 66, chapter 32, part 3; and

(9) “Web page” means a location that has a single uniform resource locator or other single location with respect to the Internet.

47-18-5205. Violation of part constituting violation of the Tennessee Consumer Protection Act — Application and construction.

(a) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act.

(b) For the purpose of application of the Tennessee Consumer Protection Act, any violation of this part shall be construed to constitute an unfair or

716

deceptive act or practice affecting trade or commerce and subject to the penalties and remedies as provided in such act, in addition to the penalties and remedies set forth in this part.

(c) If the attorney general has reason to believe that a person has violated this part, then the attorney general may institute a proceeding under this chapter.

47-18-5304. Violations — Application and construction.

(a) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act of 1977, compiled in part 1 of this chapter.

(b) For the purpose of application of the Tennessee Consumer Protection Act of 1977, any violation of this part shall be construed to constitute an unfair or deceptive act or practice affecting the conduct of trade or commerce and subject to the penalties and remedies as provided by that act. The attorney general may assess a civil penalty of not less than five thousand dollars (\$5,000) nor more than fifteen thousand dollars (\$15,000) for a violation of this part. For purposes of this part, each performance in violation of this part constitutes a separate violation of this part. The civil penalties recoverable by this state under this part are supplemental and cumulative to any other available civil or criminal penalties and relief available under other laws, regulations and rules, including, but not limited to, those available pursuant to § 47-18-108.

47-23-106. Creditor to notify debtor of creditor's change of address.

(a) Each creditor shall notify its debtors of the creditor's change of address, within fifteen (15) days of such change of address, if failure to so notify may result in a debtor being assessed late charges or additional interest for failure to timely submit payment.

(b) Each violation of subsection (a) constitutes an unfair and deceptive act and shall be subject to the procedures and penalties prescribed by chapter 18, part 1 of this title.

(c) This section shall be enforced by the attorney general and reporter, in accordance with the procedures prescribed by chapter 18, part 1 of this title.

47-50-119. Tentative ticket policy — Disclosure — Violation.

(a) A reseller shall not utilize a tentative ticket policy, unless disclosed to a ticket purchaser at the outset of the transaction, under which the reseller sells tickets that are not:

- (1) Owned by the reseller;
- (2) Under contract or any other agreement to be transferred to the reseller; or
- (3) In the reseller's possession at the time of sale.

(b) Disclosure of a tentative ticket policy must include an approximate delivery date and the number of tickets that are guaranteed to be grouped together, including any designation by the venue of an assigned seating zone, section number, or seat number. If the reseller cannot guarantee specific seats because the tickets are not owned by the reseller, under contract or any other type of agreement to be transferred to the reseller, or in the reseller's possession, then the reseller shall disclose this fact to a ticket purchaser at the outset of the transaction. If the reseller is unsuccessful in securing the

tentative tickets, then the reseller shall refund any deposit made by the purchaser of those tickets no later than ten (10) days after the date of the ticketed event.

(c) A violation of this section constitutes a violation of the Tennessee Consumer Protection Act of 1977, compiled in chapter 18, part 1 of this title.

(d) For the purpose of application of the Tennessee Consumer Protection Act of 1977, any violation of this section constitutes an unfair or deceptive act or practice affecting the conduct of trade or commerce and is subject to the penalties and remedies as provided by the Tennessee Consumer Protection Act of 1977. Each act in violation of this section constitutes a separate violation.

49-1-201. Powers and duties of the commissioner.

(a) The commissioner of education is responsible for the implementation of law or policies established by the general assembly or the state board of education.

(b) The commissioner shall attend all meetings of the state board of education and may speak at the meetings and make recommendations. Any recommendations made by the commissioner shall be made a part of the minutes of the meeting.

(c) The commissioner shall provide direction through administrative and supervisory activities designed to build and maintain an effective organization as follows:

- (1) Employ and supervise the personnel within the department;
- (2) Collect and publish, in accordance with the rules, regulations, policies and procedures of the state publications committee, statistics and other information relative to the public school system;
- (3) Make tours of inspection and survey among the public schools throughout the state and to direct supervision through the divisions of the department;
- (4) Require all teachers to attend county institutes or educational meetings on the date, at the hour and place designated by the county director of schools; provided, that schools shall not be suspended for more than ten (10) days in one (1) year; and provided further, that the place of the meeting shall be in the county where the school is located;
- (5) See that the school laws and the regulations of the state board of education are faithfully executed;
- (6) Prepare and distribute blank forms for all reports required by law or by the commissioner to be made by teachers, boards of education, directors of schools, county trustees and all other state, county and city officers;
- (7) Distribute in electronic format to the local boards of education, at the conclusion of each regular session of the general assembly, copies of newly enacted public chapters pertaining to public education;
- (8) Require all state and local public school officers and heads of state educational institutions under the department or the state board of education to submit detailed reports annually; and, in case of emergency, the commissioner may require special reports at any time of any officer connected with the public school system;
- (9) Appoint someone to make reports required to be made by the state or local public school officers and heads of state institutions named in this section when such officers fail to make full and accurate reports at the time

designated, and to allow the appointee compensation not to exceed five dollars (\$5.00) per day for the time actually employed in making the reports for the appointee's service, which shall be paid by the delinquent public school officer or the head of the state educational institution. Upon the refusal of the delinquent officer or head of the state educational institution to pay the compensation, the commissioner shall deduct that amount out of the state supplement to the delinquent officer's or head's salary or compensation and require the county trustee or other custodian of public school funds to withhold that amount out of any salary that may be due the delinquent officer;

(10) Preserve in the commissioner's office all official documents and matters in relation to educational subjects that may come into it;

(11) Report to the comptroller of the treasury, on July 1 of each year, the average daily attendance of the preceding year, as determined and taken from the daily attendance reports of the teachers and other officers of the various cities and counties, and on July 1 of odd years, biennially, the school census, as determined by the scholastic census enumeration;

(12) Submit annually to the governor a detailed report of the commissioner's official acts for the year ending June 30 preceding, exhibiting a full statistical account of the receipts and disbursements of the public school funds, the condition and progress of the public schools and making recommendations for improvements of the public school system;

(13) Prepare and furnish high school diplomas for graduates of senior, public high schools, approved by the state board of education;

(14) Revoke, when charges are made and approved by the director of schools and local board of education upon sufficient evidence, the license of any teacher, principal, supervisor or other school official who is guilty of immoral conduct; provided, that the teacher, principal, supervisor or other official shall be given ten (10) days' notice in writing and an opportunity to appear in defense;

(15)(A) Whenever it appears to the commissioner from the report of any school official or from any other reliable source that any portion of the school fund has been lost, misappropriated or in any way illegally disposed of or not collected, or is in danger of loss, misappropriation, illegal disposition or failure of collection, the commissioner may call upon the district attorney general, the county mayor or the county attorney to protect, recover or force collection of the funds; provided, that the governor shall first give approval to such action. This subdivision (c)(15)(A), however, shall not prohibit suits by one political subdivision against another political subdivision in the same county, or against the county, when the consent of the commissioner and the governor has not been obtained. The commissioner, with the consent of the governor and with the approval of the attorney general and reporter, is authorized to employ private legal counsel in order to protect, recover or force collection of any school funds; and

(B) The commissioner has authority to send a supervisor or supervisors, as provided for in this section, to any local school system to make investigation of public school accounts, records and files of any official handling the school funds or administering the public school system, and to enforce all school laws and regulations of the commissioner; provided, that the duty of the commissioner shall not be exercised until the local

board of education has requested the investigation;

(16) Supervise high schools and furnish blank forms in accord with this title;

(17) Prescribe regulations regarding the display of flags on public school buildings;

(18) Require the heads of divisions under the commissioner's direction who handle state funds to give bonds sufficient to cover any liability to the state;

(19) Inspect, approve and classify such private schools of grades one through twelve (1-12), as well as nursery schools or kindergartens, or any combination of these, as shall request such inspection, approval and classification; provided, that the same standards as are used for the approval and classification of the public schools shall be used for such inspection, approval and classification;

(20)(A) Prepare and present to the state board of education for its approval, disapproval or amendment rules and regulations that are necessary to implement the policies, standards or guidelines of the state board or the education laws of the state;

(B) In the absence of the state board, the commissioner shall have, if necessary, the emergency rulemaking authority provided for in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and

(C) The commissioner may prepare and promulgate, without board approval, rules and regulations that are solely necessary for the administrative operation and functions of the department; however, this authority shall not supersede the powers of the state board in policy matters and may be used only in performance of the commissioner's administrative responsibilities;

(21) Conduct, subject to approval of the state board of education, a program of public information concerning public schools, kindergarten through grade twelve (K-12);

(22) Approve evaluation plans developed by LEAs;

(23) [Deleted by 2018 amendment.]

(24) Inspect and approve child care centers operated by church-related schools, as defined by § 49-50-801, in accordance with the same health, fire and safety standards as are used in inspecting and approving child care centers operated in public schools;

(25) [Deleted by 2018 amendment.]

(26) [Deleted by 2018 amendment.]

(27) Authorize and administer a contract between the department of education and Miss Tennessee regarding safe and drug-free schools, subject to availability of federal funds that may be used for this purpose; and

(28) [Deleted by 2019 amendment.]

(29) [Deleted by 2018 amendment.]

(30) Require each LEA's director of schools to submit to the department of education an annual personnel report.

(d)(1) Upon application by the LEA for one (1) or more of its schools, the commissioner of education may waive any state board rule or statute that inhibits or hinders the LEA's ability to meet its goals or comply with its mission. However, the commissioner may not waive regulatory or statutory requirements related to:

(A) Federal and state civil rights;

720

- (B) Federal, state and local health and safety;
- (C) Federal and state public records;
- (D) Immunizations;
- (E) Possession of weapons on school grounds;
- (F) Background checks and fingerprinting of personnel;
- (G) Federal and state special education services;
- (H) Student due process;
- (I) Parental rights;
- (J) Federal and state student assessment and accountability;
- (K) Open meetings;
- (L) Educators' due process rights;
- (M) Reductions in teachers' salaries;
- (N) Employee rights, salaries and benefits; and
- (O) Licensure of employees.

(2) No provisions of subdivision (d)(1) shall be construed to impact memoranda of understanding under the Professional Educators Collaborative Conferencing Act of 2011, compiled in chapter 5, part 6 of this title.

(e) [Deleted by 2019 amendment.]

(f)(1) The commissioner of education, in collaboration with the state-level school safety team established under § 49-6-802, shall develop guidelines and training for all public school administrators and human resource personnel regarding the prevention of workplace violence. Such guidelines and training shall include outlines and related materials for use in the delivery of in-service training activities for teachers and other school personnel, and to further include materials and training or recognizing and responding to employee alcohol and substance abuse.

(2) The commissioner is authorized to direct up to five percent (5%) of the funds appropriated for the Safe Schools Act of 1998, codified in § 49-6-4302(c), to the Tennessee school safety center for the development and delivery of training materials and guidelines as specified under § 49-6-4302(a).

49-1-202. Divisions.

(a) The department of education shall be organized in divisions that the commissioner, with the approval of the governor, finds necessary, except that there shall be a division of career and technical education, the head of which shall be an assistant commissioner. The assistant commissioner for career and technical education shall be responsible for the management of all career and technical education matters as governed by federal and state policies, guidelines, rules, and regulations.

(b) All references to or duties or powers of the former division of vocational education or to the division of vocational-technical education shall be deemed to be references to or powers or duties of the division of career and technical education.

49-1-211. Annual report by commissioner.

(a) The commissioner of education shall publish an annual report as of each November 1, which shall include, but not be limited to:

- (1) The results of state-conducted compliance and performance audits of local school systems;

(2) Value-added assessment as organized by class, schools and local school systems;

(3) School performance indicators including performance on the Tennessee comprehensive assessment program (TCAP), dropout rates, numbers of waivers, local financial contribution to education, attendance rates, and other indicators adopted by the state board of education;

(4) School and district performance designations pursuant to § 49-1-602;

(5) [Deleted by 2019 amendment.]

(6) A comparison of expenditures by category and program for each school system with statewide averages;

(7)(A) Overall student dropout rates organized by schools and local school systems; and

(B) Student dropout rates also organized by schools and local school systems, but subdivided by gender and race;

(8)(A) Overall student suspension and expulsion rates organized by schools and local school systems; and

(B) Student suspension and expulsion rates also organized by schools and local school systems, but subdivided by gender and race;

(9)(A) Overall high school graduation rates organized by high schools and local school systems; and

(B) High school graduation rates also organized by high school and local school system, presented by gender and subgroup, pursuant to applicable federal law. The high school graduation information shall be placed on the annual state, system and school level report cards posted on the Internet;

(10) Alternative school performance indicators as reported to the department by LEAs pursuant to § 49-6-3405;

(11) [Deleted by 2019 amendment.]

(12) A list of the advanced placement (AP) courses offered in each LEA and a list of the AP courses offered in each of the LEA's schools that serve grades in which AP courses could be taken. The number of students taking AP courses and the percentage of students scoring three (3) or above on AP exams shall be reported by LEA and by school;

(13) A list of the dual enrollment courses taken by students in each LEA and a list of the dual enrollment courses taken by students in each of the LEA's schools that serve grades in which dual enrollment courses could be taken. The number of students taking dual enrollment courses and the percentage of students successfully completing dual enrollment courses shall be reported by the LEA and by the school;

(14) ACT academic achievement data including the number and percentage of students with a twenty-one (21) composite score or higher and the number and percentage of students meeting the college readiness benchmark in English, mathematics, reading, and science for each LEA and high school with at least ten (10) students taking the exam. This data shall not contain private or individual student information. The ACT data shall be included on the department's website; provided, that it is received by the department from ACT; and

(15) SAT college-bound seniors district profile for each LEA with at least twenty-five (25) students taking the SAT. This data shall not contain private or individual student information. This data shall be included on the department's website; provided, that it is received by the department from the college board.

722

(16) [Deleted by 2019 amendment.]

(b) This report shall be distributed to:

- (1) The governor;
- (2) The members of the general assembly;
- (3) The members of the state board of education;
- (4) State and local news media;
- (5) Local directors of schools;
- (6) Local boards of education;
- (7) Presidents of state and local education associations;
- (8) Presidents of state and local school board associations;
- (9) State and local parent-teacher organizations;
- (10) County mayors;
- (11) Mayors;
- (12) Local chambers of commerce;
- (13) Members of local legislative bodies; and
- (14) Local public libraries.

(c) Before TCAP scores are released pursuant to subdivision (a)(3), or otherwise, they shall be disaggregated.

49-1-214. Safe schools — Advisory guidelines.

(a) The commissioner of education, in consultation with the commissioner of safety, shall develop advisory guidelines for LEAs to use in developing safe and secure learning environments in schools. Such guidelines shall emphasize consultation at the local level with appropriate law enforcement authorities.

(b) The department of education may prepare and distribute to LEAs guidelines for incorporating into local staff development and in-service training the materials and speakers necessary to help educators reduce gang and individual violence, to assist in drug and alcohol abuse prevention and to provide educators with the tools for nonintrusive identification of potentially violent individuals in and around schools. The department may, upon request, assist LEAs in developing comprehensive violence, drug and alcohol abuse prevention in-service training programs. Department guidelines shall encourage the sharing of resources, the development of joint or collaborative programs and the coordination of efforts with local health departments, county and city law enforcement agencies and other public agencies providing health, drug, alcohol, gang violence prevention and other related services.

(c) The department may assist LEAs in qualifying for the receipt of federal and state funds that may support local efforts to provide the in-service training programs in this section. The department shall encourage LEAs to provide written materials to assist teachers and parents working to develop a safe and secure learning environment in system schools. Within available resources, the department may provide technical assistance directly to LEAs seeking to expand teacher and student safety programs.

(d) [Deleted by 2019 amendment.]

49-1-216. Report on academic performance of historically underserved student groups.

The commissioner shall annually monitor and report academic performance of historically underserved student groups. Historically underserved student group performance must be included in the accountability model established under part 6 of this chapter.

49-1-220. [Repealed.]

49-1-229. Dyslexia screening procedures — School based problem solving team — Dyslexia advisory council.

(a)(1) The department of education shall develop procedures for identifying characteristics of dyslexia through the universal screening process required by the existing RTI² framework or other available means.

(2) The dyslexia screening procedures shall include phonological and phonemic awareness, sound symbol recognition, alphabet knowledge, decoding skills, rapid naming, and encoding skills.

(3) The dyslexia screening procedures shall be implemented by every LEA.

(4) Dyslexia screening may be requested for any student by the student's parent or guardian, teacher, counselor, or school psychologist.

(b) Following the universal screening procedures conducted by the LEA, the LEA shall convene a school-based problem solving team to analyze screening and progress monitoring data to assist teachers in planning and implementing appropriate instruction and evidence-based interventions for all students, including those students who exhibit the characteristics of dyslexia. Guidance may include suggestions of appropriate tiered interventions, dyslexia-specific interventions, academic accommodations as appropriate, and access to assistive technology.

(c) If the dyslexia screening conducted by the LEA indicates that a student has characteristics of dyslexia, the LEA shall:

(1) Notify the student's parent or legal guardian;

(2) Provide the student's parent or legal guardian with information and resource material regarding dyslexia;

(3) Provide the student with appropriate tiered dyslexia-specific intervention through its RTI² framework; and

(4) Monitor the student's progress using a tool designed to measure the effectiveness of the intervention.

(d) The department shall provide appropriate professional development resources for educators in the area of identification of and intervention methods for students with dyslexia.

(e)(1) There is created a dyslexia advisory council for the purpose of advising the department in matters relating to dyslexia. The council shall be composed of nine (9) members as follows:

(A) The commissioner of education, or the commissioner's designee, who shall be an ex officio member of the council and serve as chair;

(B) An education specialist from the department, appointed by the commissioner for a term of three (3) years;

(C) A representative from a dyslexia advocacy group, appointed by the commissioner for a term of three (3) years;

(D) A special education teacher with an understanding of dyslexia, appointed by the commissioner for a term of three (3) years;

(E) An elementary school teacher, appointed by the commissioner for a term of three (3) years;

(F) A middle school teacher, appointed by the commissioner for a term of three (3) years;

(G) A high school teacher, appointed by the commissioner for a term of

three (3) years;

(H) A parent of a child with dyslexia, appointed by the commissioner for a term of three (3) years; and

(I) A licensed speech pathologist, appointed by the commissioner for a term of three (3) years.

(2) The terms of the council members shall commence July 1, 2016.

(3) When a member of the council's term expires, the appointing authority who originally appointed that member shall appoint a successor to serve the same length of term as the departing member. A member may be appointed to successive terms.

(4) If a seat on the council is vacated prior to the end of the member's term, the commissioner shall appoint a replacement to fill the vacant seat for the unfinished term.

(5) The members of the council shall serve without compensation; provided, that members of the council shall be reimbursed for travel expenses in conformity with the comprehensive state travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(6)(A) The council shall annually submit a report to the education committee of the senate and the education committee of the house of representatives.

(B) The report required by subdivision (e)(6)(A) shall include:

(i) The number of students screened and the number of students provided with dyslexia intervention services;

(ii) Information about specific accommodations needed for students who are provided dyslexia intervention services taking the annual state mandated assessment or other state or LEA mandated assessments;

(iii) Descriptions, from the LEAs that provided dyslexia intervention services, of the intervention services provided to students; and

(iv) The TVAAS growth data, when available, for the students receiving dyslexia intervention services.

(C) No information identifying individual students shall be included in the report.

(7) The council shall meet at least quarterly. A quorum consists of a majority of the membership of the council.

(f) As used in this section:

(1) "Dyslexia-specific intervention" means evidence-based, specialized reading, writing, and spelling instruction that is multisensory in nature, equipping students to simultaneously use multiple senses, such as vision, hearing, touch, and movement. Dyslexia-specific intervention employs direct instruction of systematic and cumulative content, with the sequence beginning with the easiest and most basic elements and progress methodically to more difficult material. Each step must also be based on those already learned. Components of dyslexia-specific intervention include instruction targeting phonological awareness, sound symbol association, syllable structure, morphology, syntax, and semantics; and

(2) "RTI" means Response to Instruction and Intervention, which is a framework designed to identify both struggling and advanced students in order to provide them with appropriate interventions in their specific areas of need. RTI² relies on the premise of high-quality core instruction, data-based decision making, and research-based interventions aligned to students' needs.

49-1-232. State plan for computer science education.

(a) To ensure all students are fully prepared for the technology jobs of today and the future, the department of education shall develop a state plan for computer science in grades kindergarten through twelve (K-12). In developing the state plan for computer science, the department shall solicit feedback from local education agency leaders, computer science educators, state institution of higher education representatives in the computer science field, the Tennessee STEM Innovation Network, computer science industry representatives, individuals with experience in computer programming, and other appropriate stakeholders, as determined by the department.

(b) The state plan for computer science must set strategic goals and make recommendations to:

- (1) Ensure public high school students have access to at least one (1) computer science course;
- (2) Integrate computer science into elementary education;
- (3) Allow computer science course completion to count as a core admission requirement at state institutions of higher education;
- (4) Develop educator preparation program standards and requirements for computer science;
- (5) Increase the number of underrepresented student groups earning college credit in computer science while still in high school; and
- (6) Ensure opportunities for educators who teach computer science to earn the computer science endorsement approved by the state board of education.

(c) The department shall submit a copy of the state plan for computer science to the speaker of the senate and the speaker of the house of representatives by May 1, 2020.

49-1-302. Powers and duties of board — Confidentiality of records — Standards, policies, recommendations and actions subject to appropriations — Teacher evaluation advisory committee — Duty-free teacher time — Confidentiality and integrity of statewide tests — Ungraded and unstructured classes — Educator diversity — Uniform clothing — Standards for child care — Payment of career ladder supplements — Final disciplinary actions on educator licenses.

(a) It is the duty of the board, and it has the power to:

- (1)(A) Study programs of instruction in public schools, kindergarten through grade twelve (K-12);
 - (B) Analyze the needs of such public schools;
 - (C) Study the use of public funds for such public schools;
 - (D) Include the conclusions of the studies and analyses in its annual recommendations to the governor and general assembly for the funding of public education; and
 - (E) Issue professional licenses upon the work done in standard teacher-training institutions, colleges and universities that shall be approved by the state board of education after inspection as may be provided by the board;
- (2) Set policies for:
- (A) The completion of elementary, middle, junior high and senior high

schools as structured in each school district;

(B) Evaluating individual student progress and achievement;

(C) Evaluating individual teachers; and

(D) Measuring the educational achievement of individual schools;

(3) Develop and maintain current a master plan for the development of public education, kindergarten through grade twelve (K-12), and provide recommendations to the executive branch, the general assembly and the local boards of education and directors of schools regarding the use of public funds for education;

(4)(A) Develop and adopt policies, formulas and guidelines for the fair and equitable distribution and use of public funds among public schools and for the funding of all requirements of state laws, rules, regulations and other required expenses, and to regulate expenditures of state appropriations for public education, kindergarten through grade twelve (K-12). The policies, formulas and guidelines may be changed as necessary, but not more often than once per appropriation period, and shall not be considered rules subject to promulgation under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The policies, formulas and guidelines adopted by the board shall consider and include provisions for current operation and maintenance, textbooks and instructional materials, school food services, pupil transportation, career and technical education, number of programs of pupils served, measurable pupil improvement, reduction of pupil dropouts, teacher training, experience and certification, pupil-teacher ratio, substitute teacher reimbursement, requirements prescribed by state laws, rules, regulations or other required costs, and inflation, and may include other elements deemed by the board to be necessary. Any changes in the basic education program components of the formula as approved by the board for the 1992-1993 fiscal year must first be approved by the commissioners of education and finance and administration;

(B) The board shall establish a review committee for the Tennessee basic education program (BEP). The committee shall include the executive director of the state board of education, the commissioner of education, the commissioner of finance and administration, the comptroller of the treasury, the director of the Tennessee advisory commission on intergovernmental relations, the chair of the education committee of the senate, the chair of the education committee of the house of representatives, and the director of the office of legislative budget analysis, or their designees. The board shall appoint at least one (1) member from each of the following groups: teachers, school boards, directors of schools, county governments, municipal governments that operate LEAs, finance directors of urban school systems, finance directors of suburban school systems, and finance directors of rural school systems. The BEP review committee shall meet at least four (4) times a year and shall regularly review the BEP components, as well as identify needed revisions, additions, or deletions to the formula. The committee shall annually review the BEP instructional positions component, taking into consideration factors including, but not limited to, total instructional salary disparity among LEAs, differences in benefits and other compensation among LEAs, inflation, and instructional salaries in states in the southeast and other regions. The committee shall prepare an annual report on the BEP and shall provide the report on or before

November 1 of each year, to the governor, the state board of education, the finance, ways and means committees of the senate and the house of representatives, the education committee of the senate, and the education committee of the house of representatives. This report shall include recommendations on needed revisions, additions, and deletions to the formula, as well as an analysis of instructional salary disparity among LEAs, including an analysis of disparity in benefits and other compensation among LEAs;

(5)(A) Adopt policies governing:

(i) The qualifications, requirements and standards of and provide the licenses and certificates for all public school teachers, principals, assistant principals, supervisors and directors of schools;

(ii) Evaluation of teachers, principals, assistant principals, supervisors and directors of schools;

(iii) Retraining and professional development; and

(iv) Discipline of licensed personnel for misconduct by formal reprimand or by the suspension and revocation of licenses and certificates;

(B) The board may adopt a policy establishing levels of compensation that are correlated to levels and standards of teacher competency approved by the board;

(6) Set policies for graduation requirements in kindergarten through grade twelve (K-12);

(7) Set policies for the review, approval or disapproval and classification of all public schools, kindergarten through grade twelve (K-12), or any combination of these grades;

(8) Set policies governing all academic standards and courses of study in the public schools;

(9) Prescribe the use of textbooks and other instructional materials, based on recommendations of the state textbook and instructional materials quality commission, for the various subjects taught or used in conjunction with the public schools;

(10) Meet jointly with the higher education commission and the commissioner of education at least annually for the purpose of reviewing the expenditures and programs of public education;

(11) Approve, disapprove or amend rules and regulations prepared by the commissioner to implement policies, standards or guidelines of the board in order to effectuate this section;

(12) Determine the ways and means of improving teacher, student and school performances, and to set policies to accomplish such improvements;

(13) Provide, in association with the commissioner, an annual report, no later than February 1, on teacher, student and school performance to the governor and to the general assembly;

(14) Prescribe rules and regulations to establish a program whereby a local school may withhold all grade cards, diplomas, certificates of progress or transcripts of a student who has incurred a debt to the school or a student who has taken property that belongs to a local school or any agency of the school until the student makes restitution to the school for the debt. The rules and regulations shall not permit the imposition of sanctions against a student who is without fault;

(15)(A) Develop a professional credentialing program for school principals that includes professional training and testing components. LEAs shall

have the option of participating in the program; provided, that all school principals employed for the first time by LEAs for the 1994-1995 school year shall have attended the program and shall have received the full credential offered through the program;

(B) Persons having an endorsement in administration/supervision, supervisor of instruction or principal on August 31, 1994, shall maintain that credential and shall not be required to complete the professional credentialing program as provided in this subdivision (a)(15);

(C) Any person who performs the duties of a supervisor of instruction, regardless of the title of the person's position, must have the credential required for a supervisor of instruction;

(D) Persons having an endorsement as a supervisor of instruction on August 31, 1994, shall maintain the credential and shall not be required to complete the professional credentialing program as provided in this subdivision (a)(15);

(16) [Deleted by 2018 amendment.]

(17) The general assembly finds that, given the fact that the state provides substantial financial academic assistance to students of the state based on cumulative grade point averages and the fact that LEAs currently use a variety of grading scales, it is in the best interest of the students of the public schools that a uniform grading system be developed and adopted by the state board of education to be implemented in all public schools of the state. The state board of education is authorized to promulgate rules and regulations for the administration of this subdivision (a)(17);

(18) Develop guidelines for the establishment by LEAs of differentiated pay plans, including plans that offer bonuses, including performance bonuses, that are supplemental to the salary schedules required under § 49-3-306. The plans shall address additional pay for teaching subjects or teaching in schools for which LEAs have difficulty hiring and retaining highly qualified teachers;

(19) [Deleted by 2018 amendment.]

(20) Develop guidelines for the use of LEAs to strengthen personal finance standards, based on recommendations by the financial literacy commission pursuant to § 49-6-1704, and require that certain financial literacy concepts are included as a part of the standards for social studies approved by the board.

(b) All records, reports, studies, statistics and other information and materials of the department relative to the public school system shall be available upon request to the board and its executive director and other staff personnel, except such records as may be confidential by law.

(c) Standards, policies, recommendations and actions of the board shall be subject in all cases to availability of funds as appropriated by law.

(d)(1) There is hereby created the teacher evaluation advisory committee. The committee shall consist of fifteen (15) members. The commissioner of education, the executive director of the state board of education and the chairpersons of the education committees of the senate and the house of representatives shall be members. One (1) member shall be a kindergarten through grade twelve (K-12) public school teacher appointed by the speaker of the house of representatives and one (1) member shall be a kindergarten through grade twelve (K-12) public school teacher appointed by the speaker of the senate. The remaining nine (9) members shall be appointed by the

governor and shall consist of three (3) public school teachers, two (2) public school principals, one (1) director of a school district and three (3) members representing other stakeholders' interests; provided, that at least one (1) member of the committee shall be a parent of a currently enrolled public school student. The membership of the committee shall appropriately reflect the racial and geographic diversity of this state. The commissioner of education shall serve as the chairperson of the committee. All appointments to the teacher evaluation advisory committee shall be made within thirty (30) days of January 16, 2010. If the commissioner of education who is initially appointed to the committee as chairperson ceases to be the commissioner of education because of resignation or retirement, then such former commissioner shall remain a member of the committee until the committee ceases to exist. The total number of members of the committee shall thereby be increased to sixteen (16).

(2)(A) The committee shall develop and recommend to the board guidelines and criteria for the annual evaluation of all teachers and principals employed by LEAs, including a local level evaluation grievance procedure. This grievance procedure shall provide a means for evaluated teachers and principals to challenge only the accuracy of the data used in the evaluation and the adherence to the evaluation policies adopted pursuant to this subdivision (d)(2). Following the development of these guidelines and criteria, the board shall adopt guidelines and criteria. The evaluations shall be a factor in employment decisions, including, but not necessarily limited to, promotion, retention, termination, compensation and the attainment of tenure status; however, nothing in this subdivision (d)(2)(A) shall require an LEA to use student achievement data based on state assessments as the sole factor in employment decisions.

(B)(i) Fifty percent (50%) of the evaluation criteria developed pursuant to this subdivision (d)(2) shall be comprised of student achievement data.

(ii) Thirty-five percent (35%) of the evaluation criteria shall be student achievement data based on student growth data as represented by the Tennessee Value-Added Assessment System (TVAAS), developed pursuant to part 6 of this chapter, or some other comparable measure of student growth, if no such TVAAS data is available.

(iii) Fifteen percent (15%) shall be based on other measures of student achievement selected from a list of such measures developed by the teacher evaluation advisory committee and adopted by the board. For each evaluation, the teacher or principal being evaluated shall mutually agree with the person or persons responsible for conducting the evaluation on which such measures are employed. If the teacher or principal being evaluated and the person or persons responsible for conducting the evaluation do not agree on the measures that are to be used, the teacher or principal shall choose the evaluation measures. The evaluation measures shall be verified by the department of education to ensure that the evaluations correspond with the teaching assignment of each individual teacher and the duty assignments of each individual principal.

(iv) Notwithstanding subdivisions (d)(2)(B)(ii) and (iii), if a teacher's or principal's student growth data, as described in subdivision (d)(2)(B)(ii), reflects attainment of an achievement level of "at expecta-

tions,” “above expectations,” or “significantly above expectations,” as provided in the evaluation guidelines adopted by the board pursuant to this subdivision (d)(2), then the student growth data shall comprise fifty percent (50%) of the teacher’s or principal’s evaluation, if such use results in a higher evaluation score for the teacher or principal.

(v) Notwithstanding subdivision (d)(2)(B)(iv), if an individual teacher’s student growth data, as described in subdivision (d)(2)(B)(ii), reflects attainment of an achievement level demonstrating an effectiveness level of above expectations or significantly above expectations as provided in the evaluation guidelines adopted by the board pursuant to this subdivision (d)(2), then such student growth data may, at the discretion of the LEA and upon request of the teacher, comprise one hundred percent (100%) of the teacher’s final evaluation score. If the LEA chooses to implement this subdivision (d)(2)(B)(v), it must do so for all teachers with individual growth data who request its implementation.

(vi) A teacher’s most recent year’s student growth data, as described in subdivision (d)(2)(B)(ii), shall comprise the full thirty-five percent (35%) of the teacher’s evaluation, if such use results in a higher evaluation score for the teacher.

(vii) For teachers without access to individual growth data representative of student growth, as specified in subdivision (d)(2)(B)(ii), thirty percent (30%) of the evaluation criteria shall be comprised of student achievement data with fifteen percent (15%) of the evaluation criteria based on student growth as specified in subdivision (d)(2)(B)(ii) and represented by TVAAS evaluation composites.

(viii) The board shall have the ultimate authority to determine, identify and adopt measures of student growth that are comparable to the TVAAS.

(ix) By the 2019-2020 school year, in order to provide individual growth scores to teachers in non-tested grades and subjects, LEAs shall use at least one (1) appropriate alternative growth model that has been approved by the state board of education.

(x) The department of education shall work to develop valid and reliable alternative student growth models for the grade levels and subjects that do not have models as of March 14, 2018.

(C) Other mandatory criteria for the evaluations shall include, but not necessarily be limited to, the following:

- (i) Review of prior evaluations;
- (ii) Personal conferences to include discussion of strengths, weaknesses and remediation;
- (iii) Relative to teachers only, classroom or position observation followed by written assessment; and
- (iv) Relative to principals only, additional criteria pursuant to § 49-2-303(a)(1).

(D) No rules, policies, or guidelines shall be established that require the classroom or position observation results pursuant to subdivision (d)(2)(C) to be aligned with TVAAS data.

(E) For the 2018-2019 and 2019-2020 school years, student growth evaluation composites generated by assessments administered in the 2017-2018 school year shall be excluded from the student growth measure of a teacher’s evaluation, as specified in subdivision (d)(2)(B)(ii), if such

exclusion results in a higher evaluation score for the teacher.

(3) The policies adopted pursuant to subdivision (d)(2) shall be effective no later than July 1, 2011, in order to be implemented prior to the 2011-2012 academic year. Prior to the implementation of these policies, the existing guidelines and criteria for the evaluation of certificated persons employed by LEAs shall continue to be utilized.

(4) The evaluation procedure created by this subsection (d) shall not apply to teachers who are employed under contracts of duration of one hundred twenty (120) days per school year or less or who are not employed full-time.

(5) The committee shall be subject to the governmental entity review law, compiled in title 4, chapter 29, and shall terminate on July 1, 2011.

(6) If an LEA determines that it is necessary to assign an individual to teach in an area for which the individual is not endorsed, any evaluation conducted for the course outside the area of endorsement shall relate only to the improvement of teaching skills and strategies and not a determination of competency. The board shall include as a part of its evaluation guidelines a specific reference to this use of its evaluation procedures.

(7) Pursuant to state board of education rules and policies, an LEA may utilize either the state board adopted model plan for the qualitative portion of teacher evaluation or an evaluation model that has been proposed by the LEA and approved by the state board of education. Evaluation models approved by the state board of education may, with local board approval, be utilized in any LEA.

(e)(1) The board shall develop and adopt rules and regulations to achieve a duty-free lunch period for all teachers, kindergarten through grade twelve (K-12), of at least the length of the student lunch period, during which time the teacher has no other assigned responsibilities.

(2) The board shall develop and adopt rules and regulations providing teachers in kindergarten through grade twelve (K-12) with individual duty-free planning periods during the established instructional day. At least two and one half (2 ½) hours of individual planning time shall be provided each week during which teachers have no other assigned duties or responsibilities, other than planning for instruction. The two and one half (2 ½) hours may be divided on a daily or other basis. Duty-free planning time shall not occur during any period that teachers are entitled to duty-free lunch. Any LEA that is providing a duty-free planning period by extending the school day by thirty (30) minutes as of the beginning of the 2000-2001 school year may continue that practice and satisfy the requirements of this section.

(f) All statewide tests developed or provided by the department to measure individual student progress and achievement, all banks of questions, all field testing documents used as background for the development of the tests, and all answers shall be kept confidential when and for so long as is necessary to protect the integrity of the tests.

(g) [Deleted by 2019 amendment.]

(h) [Deleted by 2018 amendment.]

(i) The commissioner shall recommend, and the board shall adopt, a policy to promote educator diversity. The policy must include:

(1) Strategies for LEAs to use in the recruitment and retention of minority educators;

(2) A requirement that each LEA set a goal for educator diversity that takes into consideration the diversity of the students that the LEA serves;

and

(3) A plan to monitor educator diversity in the state.

(j) The board shall develop guidelines and criteria for local adoption and enforcement of uniform clothing for public school students. These guidelines and criteria shall require that uniform clothing be simple, appropriate, readily available and inexpensive. The board shall disseminate these guidelines and criteria to LEAs. These guidelines and criteria can be used as a tool for LEAs that may adopt uniform clothing policies. Adoption of uniform clothing policies shall be at the discretion of the local board of education.

(k) [Deleted by 2018 amendment.]

(l)(1) The board, through the state department of education, shall enforce standards for:

(A) Care of children in any before or after school child care programs operated pursuant to § 49-2-203(b)(11);

(B) Child care provided by church affiliated schools as defined by § 49-50-801;

(C) Public school administered early childhood education programs;

(D) Child care provided in federally regulated programs including Title I preschools, all school administered head start and even start programs;

(E) State approved Montessori school programs; and

(F) Programs operated by private schools as defined by § 49-6-3001(c)(3).

(2)(A) The board shall promulgate regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 2, to establish standards for those programs described in subdivision (l)(1).

(B) The regulations shall provide equivalent protection for the health, safety and welfare of children, and shall use the same criteria for development of such protection as are used by the department of human services and that are set forth in § 71-3-502(a)(3). Although the standards and regulations need not be identical in all respects, the standards and regulations shall parallel, in a substantial manner, the child care standards and regulations promulgated by the department of human services for child care agencies that the department of human services licenses.

(3) Certificates of approval shall be issued pursuant to those regulations by the commissioner of education, pursuant to part 11 of this chapter, to those child care programs that meet the standards as adopted by the board.

(4)(A) There is established a child care advisory council, which shall advise the state board of education regarding the establishment of child care standards and regulations for child care programs subject to the board's jurisdiction and to act as a hearing tribunal for appeals from actions of the state department of education regarding the certificate of approval issued to child care programs.

(B)(i) The council shall consist of a director of a local school system, a representative of a private, church related school organization as defined in § 49-50-801, a representative from an institution of higher education with expertise in early childhood development, a parent of a child in a child care program, a coordinator of child care programs, a representative of the department of education, a representative from the child care services staff of the department of human services as designated by the state board of education, and four (4) other members as may be designated by the board of education. The council shall fairly

represent the racial and ethnic composition of the state. Members shall serve until replaced by the board. The representative of the department of education shall serve as chair of the council until the council elects a chair. The chair shall sign the orders of the council regarding certificate actions taken by the council.

(ii) The council shall elect a vice chair who shall serve in the absence of the chair. If the chair resigns, is unable to perform the duties of the chair, is removed or the chair's term on the council expires, the chair of the state board of education shall appoint a new chair until the board can elect a chair. The vice chair shall have authority to sign all orders of the council in the absence of the chair and for actions of the panels under subdivision (l)(4)(E)(iii).

(C) The members of the council shall serve without reimbursement except for their travel expenses as may be established by state travel regulations.

(D) The council shall act as an advisory council to the state board of education regarding the development of child care standards for child care programs subject to the board's jurisdiction and shall review the standards on a formal basis at least every four (4) years, but may be requested more frequently by the board to conduct such further reviews as may be necessary or to otherwise provide periodic advice to the board regarding child care programs subject to the board's jurisdiction.

(E)(i) The council shall act as a hearing tribunal for all actions of the department of education regarding the denial or revocation of a certificate of approval for the operation of a child care program under the jurisdiction of the state board of education; provided, that the council shall not hear issues regarding the summary suspension of a certificate of approval, which shall be heard by a department hearing officer.

(ii) For purposes of acting as a hearing tribunal, a quorum for the hearing shall consist of a majority of the members of the council.

(iii) In order to complete the work of the council, the chair may appoint one (1) or more panels of the council with a quorum of five (5) members, at least one (1) of whom shall be randomly selected at-large members selected by the chair. The chair of the council shall appoint the chair of the panel. The panel shall have complete authority to hear any case under the council's jurisdiction and shall have complete authority to enter any necessary orders concerning certificate actions conducted before the council. Any orders of the panel shall be signed by the chair of the panel or by the council chair or vice chair.

(F) Rules for its operation as a hearing tribunal shall be adopted by the state board of education in accordance with the Uniform Administrative Procedures Act.

(G) An existing member of the professional staff of the department of education shall serve as recording secretary of the council and shall assist in the arrangement of meetings of the council and the setting and processing of appeal hearings regarding certificates of approval for child care programs.

(m) [Deleted by 2018 amendment.]

(n) The board shall develop guidelines, criteria and administrative rules as necessary to assure the payment of career ladder supplements to eligible recipients so long as they remain in positions in the public schools that qualify

for such supplements. The board shall notify the commissioner of finance and administration at such time as the last eligible recipient separates from service to a local board of education. At the time of the notice to the commissioner of finance and administration, all rules, regulations and policies pertaining to the career ladder program shall become void and of no effect.

(o) The state board of education shall create an endorsement in computer science for all teachers who demonstrate sufficient content knowledge in the course material, as determined by the state board of education.

(p) The state board of education shall develop policies concerning the transmittal of final disciplinary actions taken by the board on educator licenses to the national clearinghouse administered by the National Association of State Directors of Teacher Education and Certification (NASDTEC).

(q) The state board of education shall post on its website all final disciplinary actions taken by the board on educator licenses. No final disciplinary action shall be removed from the state board's website except for actions in which the state board or a court of competent jurisdiction determines a mistake has been made.

49-1-306. Goals.

It is the legislative intent that the state board of education develop measurable goals or benchmarks, or both, and submit the goals or benchmarks to the education committee of the senate and the education committee of the house of representatives.

49-1-309. No educational standards to be imposed by federal government — Adoption of state educational standards — Joining testing consortium — Use of collected data.

(a) No educational standards shall be imposed on the state by the federal government. Any adoption of educational standards for the public schools of the state shall be done freely by the state board of education which, except as provided in subsection (b), may change, adjust or recede from a standard at any time.

(b) A proposed change or addition to an educational standard, including, but not limited to, the Next Generation Science Standards, the National Curriculum Standards for Social Studies, the National Health Education Standards, or the National Sexuality Education Standards shall be posted for public review on the state board's web site and submitted to the education committee of the senate and the education committee of the house of representatives at least sixty (60) days before the state board meeting during which the final adoption of the proposed standard is to be considered. The state board may vote on adoption of standards or proposed changes or additions only at a public meeting at which a quorum is in attendance.

(c) The state board shall not join a testing consortium inclusive of multiple states that requires the adoption of common standards in social studies or science subjects, unless the board provides at least sixty (60) days notice to the education committee of the senate and the education committee of the house of representatives and posts such notice on its web site at least sixty (60) days before officially joining any such consortium.

(d) Data collected from the use of or testing under educational standards adopted by the state board shall be used for the sole purpose of tracking the academic prowess and needs of students.

49-1-311. Appointment of standards review and development committees and advisory teams — Web site for public comment — Recommendations.

(a) As required by the current established process:

(1) The state board shall appoint two (2) standards review and development committees. One (1) committee shall be an English language arts standards review and development committee, and one (1) committee shall be a mathematics standards review and development committee. Each committee shall be composed of two (2) representatives from institutions of higher education located in the state and six (6) educators who reside in the state and work in grades kindergarten through twelve (K-12);

(2) The state board shall also appoint six (6) advisory teams. Three (3) advisory teams shall advise and assist the English language arts standards review and development committee, and three (3) advisory teams shall advise and assist the mathematics standards review and development committee. The advisory teams shall be structured by grade levels, so that one (1) advisory team reviews standards for kindergarten through grade five (K-5), one (1) for grades six through eight (6-8), and one (1) for grades nine through twelve (9-12) in each subject. Each advisory team shall be composed of one (1) representative from an institution of higher education located in the state and six (6) educators who reside in the state and work in the appropriate grade levels and subject;

(3) The public's assistance in reviewing the current standards and suggesting changes to the current standards shall be elicited through a web site that shall allow comment by the public, as well as by educators, on the current standards. A third-party, independent educational resource, selected by the state board, shall collect all of the data and transmit all of the information gathered to the state board for dissemination to the appropriate advisory team for review and consideration;

(4) Each advisory team shall review the current standards for its subject matter and grade level together with the comments and suggestions gathered from the public and educators. After an advisory team has conducted its review, the team shall make recommendations for changes to the current standards to the appropriate standards review and development committee; and

(5) Each standards review and development committee shall review its advisory teams' reports and make recommendations for the new set of standards to the standards recommendation committee created in § 49-1-312(a).

(b)(1) Beginning in 2018, the state board shall ensure that the standards review and development committees and advisory teams review the standards for English language arts, mathematics, science, and social studies pursuant to §§ 49-1-311 — 49-1-313 at least once every six (6) years from the last adoption. The standards review and development committees and advisory teams shall make recommendations for adoption of new standards in these subject areas to the state board, and the state board shall vote on whether to adopt the recommended standards.

(2) Notwithstanding subdivision (b)(1), the state board may extend the six-year period required for the standards review and development committees and advisory teams to review the standards for English language arts and mathematics under subdivision (b)(1) one (1) time for a period not to

736

exceed three (3) years.

(c) Any unexpended funds appropriated for the purposes of this section shall not revert to the general fund, but shall be carried forward into the subsequent fiscal year to effectuate the purposes of this section.

49-1-315. [Repealed.]

49-1-608. Subject matter tests for secondary schools — Initiation of value added assessment.

The development of subject matter tests shall be initiated to measure performance of high school students in subjects designated by the state board of education and reviewed by the education committee of the senate and the education committee of the house of representatives. These tests shall reflect the complete range of topics covered within the list of state-approved textbooks and instructional materials for that subject. As soon as valid tests have been developed, the testing of students shall be initiated to provide for value-added assessment. Value-added assessment shall be conducted annually. Value-added assessment may be initiated in other subjects designated by the state board of education and reviewed by the education committee of the senate and the education committee of the house of representatives at such times as valid tests are developed that effectively measure performance in such subjects.

49-1-611. Reports — Removal or appointment of school board members.

The commissioner shall make periodic reports to the state board, the education committee of the senate, and the education committee of the house of representatives on the progress of any local school system or school placed on probation. Whenever it appears to the commissioner that a local school system or school placed on probation pursuant to § 49-1-602 is not taking action necessary to resolve the deficiencies identified in any report or study of the system or school, the commissioner may with the approval of the state board order the removal of some or all of the members of the local board and the director of schools and appoint an agent to direct all operations of the system. Before the removal or appointment functions are exercised, the commissioner shall also appear before the education committee of the senate and the education committee of the house of representatives for that purpose and present the reasons for the proposed actions. The committees may either endorse or refuse to endorse the proposed actions. The agent shall have all authority and powers previously vested in the local board and director of schools and such other powers as may be granted by law or regulation.

49-1-703. Duties of board.

The state board of education shall:

(1) Create, publish and make publicly available a data inventory and dictionary or index of data elements with definitions of individual student data fields currently in the student data system along with the purpose or reason for inclusion in the data system;

(2) Develop, publish and make publicly available policies and procedures to comply with FERPA, § 10-7-504 and other relevant privacy laws and policies. These policies and procedures shall, at a minimum, require that:

(A) Access to student and de-identified data in the student data system is restricted to:

(i) The authorized staff of the department and the department's contractors who require access to perform their assigned duties;

(ii) LEA administrators, teachers, school personnel and the LEA's contractors who require access to perform their assigned duties;

(iii) Students and their parents; provided, however, that a student or the student's parents may only access the student's individual data;

(iv) The authorized staff of other state agencies as permitted by law; provided, however, that within sixty (60) days of providing such access, the department shall provide notice of the release to the state board, the education committee of the senate, and the education committee of the house of representatives, and post such notice on the department's web site;

(v) Parties conducting research for or on behalf of the department or an LEA; provided, that such access is granted in compliance with FERPA and other relevant state and federal privacy laws and policies and that the department shall provide notice of the release to the state board, the education committee of the senate, and the education committee of the house of representatives, and post such notice on the department's web site;

(vi) Appropriate entities in compliance with a lawfully issued subpoena or court order; or

(vii) Appropriate officials in connection with an interagency audit or evaluation of a federal or state supported education program;

(B) The department uses only aggregate data in public reports or in response to public record requests in accordance with subdivision (3);

(C)(i) The commissioner develops criteria for the approval of research and data requests from state and local agencies, the general assembly, researchers and the public; provided, however, that:

(a) Unless otherwise approved by the state board or permitted in this part, student data maintained by the department shall remain confidential; and

(b) Unless otherwise permitted in this part or approved by the state board to release student or de-identified data in specific instances, the department may only use aggregate data in the release of data in response to research and data requests;

(ii) Unless otherwise approved in this part or by the state board, the department shall not transfer student or de-identified data deemed confidential under subdivision (2)(C)(i)(a) to any federal agency or other organization or entity outside the state, except when:

(a) A student transfers out of state or an LEA seeks help with locating an out-of-state transfer;

(b) A student leaves the state to attend an out-of-state institution of higher education or training program;

(c) A student registers for or takes a national or multistate assessment;

(d) A student voluntarily participates in a program for which such data transfer is a condition or requirement of participation;

(e) The department enters into a contract that governs databases, assessments, special education or instructional supports with an

out-of-state vendor; or

(f) A student is classified as “migrant” for federal reporting purposes; and

(D) Students and parents are notified of their rights under federal and state law;

(3) Develop a detailed data security plan that includes:

(A) Guidelines for authorizing access to the teacher data system and to individual teacher data including guidelines for authentication of authorized access;

(B) Guidelines for authorizing access to the student data system and to individual student data including guidelines for authentication of authorized access;

(C) Privacy compliance standards;

(D) Privacy and security audits;

(E) Breach planning, notification and procedures; and

(F) Data retention and disposition policies;

(4) Ensure routine and ongoing compliance by the department with FERPA, § 10-7-504, other relevant privacy laws and policies, and the privacy and security policies and procedures developed under the authority of this part, including the performance of compliance audits;

(5) Ensure that any contracts that govern databases, assessments or instructional supports that include student or de-identified data and are outsourced to private vendors include express provisions that safeguard privacy and security and include penalties for noncompliance; and

(6) Notify the governor and the general assembly within sixty (60) days of the following:

(A) Any new student data fields included in the state student data system;

(B) Changes to existing data collections required for any reason, including changes to federal reporting requirements made by the United States department of education;

(C) Any exceptions granted by the state board in the past year regarding the release or out-of-state transfer of student or de-identified data accompanied by an explanation of each exception; and

(D) The results of any and all privacy compliance and security audits completed in the past year. Notifications regarding privacy compliance and security audits shall not include any information that would itself pose a security threat to the state or local student information systems or to the secure transmission of data between state and local systems by exposing vulnerabilities.

49-1-906. [Repealed.]

49-1-907. Early grades reading report.

The department of education shall annually submit to the education committee of the senate and the education committee of the house of representatives an early grades reading report. The reading report must include:

(1) Statewide third grade reading scores;

(2) The testing procedures used to evaluate reading proficiency;

(3) The number of students retained in grades kindergarten through

three (K-3);

(4) The number of reading specialists in each LEA;

(5) The types of reading intervention or enrichment programs offered in each LEA; and

(6) Information on statewide reading initiatives.

49-1-1003. State grant program.

(a) Subject to available funding, the department of education shall establish the Connie Hall Givens coordinated school health grant program to assist LEAs in implementing a coordinated school health program. In order to qualify for a coordinated school health grant, an LEA shall submit a detailed plan of how the agency currently addresses the health needs of school children, who would serve as school health coordinator, and how the agency would use the state grant to augment what it is currently doing.

(b) The plan shall give priority to school health as a means to assist in meeting the education performance indicators of § 49-1-211(a)(3). The plan shall be developed in accordance with the guidelines for a coordinated school health program developed by the commissioner. In developing the guidelines for the program, the commissioner is requested to consult with appropriate organizations involved in the areas of student health, health care and fitness. The guidelines and any proposed forms for applications shall be offered to the education committee of the senate and the education committee of the house of representatives for review and comment. Copies of local education plans may be offered to the education committee of the senate and the education committee of the house of representatives for informational purposes. The goal of the grant program shall be to help the LEAs establish a bona fide coordinated school health program that improves the overall health and wellness of students.

(c) The annual report on school health to the governor and general assembly required by § 49-5-415(a)(4) [transferred to § 49-50-1602] shall include information on progress toward the goal.

49-1-1004. Amount and availability of funds.

(a) The amount in the Connie Hall Givens coordinated school health grant program shall be limited to the amount appropriated and shall be available to LEAs based on the guidelines developed by the commissioner of education.

(b) The amount that each LEA is eligible to receive shall be subject to a local match, following the funding model set forth in § 49-6-4302(d).

(c) Any grants made to an LEA shall be expended in addition to any funds already expended as school health programs. For this purpose, expenditures of components enumerated in § 49-1-1002 for the 1998-1999 fiscal year shall be considered the base expenditure on school health, and any LEA receiving grant funds shall maintain this base.

49-1-1007. Report — Publication.

By July 1, 2017, and each July 1 thereafter, the department shall provide a report to the education committee of the senate and the education committee of the house of representatives, regarding the physical education programs and activity for each LEA. The department shall publish the report on the

740

department's web site. Upon the release of the report, the department shall encourage each school to use the results of the report and comparison to other schools in helping develop the school's overall wellness plan. In compiling the data used in the report, the department may use assessments developed by a nationally recognized nonprofit heart association.

49-2-105. [Repealed.]

49-2-115. Family resource centers.

(a) Family resource centers may be established by any LEA in order to coordinate state and community services to help meet the needs of families with children. An LEA may directly operate its own family resource centers or may contract with a locally based nonprofit agency, including a community action agency, to operate one (1) or more such centers on behalf of the LEA. Each center shall be located in or near a school. The local school board shall appoint community service providers and parents to serve on an advisory council for each family resource center. Parents shall comprise a majority of each advisory council.

(b) Upon approval by the department of education, basic education program (BEP) funds may be expended by an LEA to plan and implement a family resource center. The application for such approval shall identify a full-time director and other professional staff from the school or community, or both, which may include psychologists, school counselors, social workers, nurses, instructional assistants and teachers. In establishing family resource centers, the department shall consult with the departments of health, mental health and substance abuse services, intellectual and developmental disabilities and children's services.

(c) The commissioner of education is authorized to award grants of up to fifty thousand dollars (\$50,000) to LEAs for the purpose of planning, implementing and operating family resource centers. All LEAs, upon receiving such grants for a period of three (3) school years, shall be evaluated by the commissioner to determine progress in attaining objectives set forth within this section. Those LEAs awarded satisfactory evaluations shall be eligible to continue receiving such grants for a period of three (3) additional school years. Beginning with the 1995-1996 school year, the number of family resource centers receiving such planning, implementation and operation grants shall be increased at least fifty percent (50%) above the number of centers receiving grants during the 1994-1995 school year.

(d) LEAs with state approved family resource centers may be given priority in receiving additional state funding for:

- (1) Formal parent involvement programs in elementary schools;
- (2) Early childhood programs for children at-risk;
- (3) Programs for parents with preschool at-risk children;
- (4) Learning centers in urban housing projects;
- (5) Programs in high schools for pregnant teenagers; and
- (6) "Jobs for Tennessee Graduates" in high schools.

(e)(1) Family resource centers shall provide interagency services/resources information on issues such as parent training, crisis intervention, respite care and counseling needs for families of children with behavioral/emotional disorders.

(2) Family resource centers shall serve the function of being the center of information sharing and resource facilitation for such families.

(3) Family resource centers shall also serve the function of helping families answer questions regarding funding for the options of service their child or family requires.

(f) The purpose of each family resource center shall be to maximize the potential learning capacity of the child by ensuring that school environments and neighborhoods are safe and socially enriching, that families are strong and able to protect children and meet their basic needs and that children are physically healthy, emotionally stable, socially well-adjusted and able to connect with enriching opportunities and experiences in their schools and communities. In order to enable children to attain the most benefit possible from the time they spend in educational settings, the family resource centers shall focus on providing information to families about resources, support and benefits available in the community and on developing a coordinated system of care for children in the community in order to effectuate this purpose.

(g) The department of education and the department of children's services shall jointly develop guidelines for the operation of family resource centers, focusing on the requirements of this section, including the stated purpose of family resource centers in subsection (f). The guidelines shall be used by all family resource centers established pursuant to this section.

49-2-122. Placement of automated external defibrillator (AED) devices in schools.

(a) All public schools must have at least one (1) automated external defibrillator (AED) device placed within the school.

(b) All schools required pursuant to subsection (a) to place AED devices in schools, shall comply with all provisions of title 68, chapter 140, part 4, relative to:

- (1) Training;
- (2) Establishment of a written plan that complies with § 68-140-404;
- (3) Notification;
- (4) Maintenance and testing of the AEDs to ensure that the devices are in optimal operating condition in compliance with § 68-140-404; and
- (5) Any other requirements.

(c) Each placement of an AED shall be supervised and endorsed by a physician with an unrestricted license to practice medicine or osteopathy in this state. When a school receives its first AED, it shall place the AED in a location that may be accessed readily from any area of the school, which may include those areas of the school that are used for physical education or activity. Subsequently, additional AEDs shall be placed in locations that are accessible during emergency situations. AEDs shall not be placed in an office that is not accessible to any person who might need to use the AED or in any location that is locked during times that students, parents or school employees are present at school or school events.

(d) AEDs placed in schools shall be registered with local emergency medical services providers as required by §§ 68-140-403(2) and 68-140-404(6).

(e) LEAs and schools responsible for an AED program pursuant to § 68-140-404(1) shall not be liable for any civil liability for any personal injury that results from an act or omission that does not amount to willful or wanton

742

misconduct or gross negligence if the applicable provisions and program established under § 68-140-404 and the rules adopted by the department pursuant to § 68-140-405 have been met by the LEA and school and have been followed by the individuals using the AED.

(f) A teacher, school employee or other person employed by the LEA responsible for an AED program pursuant to § 68-140-404(1) shall not be liable for any civil liability for any personal injury that results from an act or omission that does not amount to willful or wanton misconduct or gross negligence if the applicable provisions and program established under § 68-140-404 and the rules adopted by the department pursuant to § 68-140-405 have been met by the LEA and school and have been followed by the individuals using the AED.

(g) Misuse or abuse of any AED device on school property by a student is disorderly conduct and the student shall be subject to disciplinary action.

49-2-123. [Repealed.]

49-2-124. Universal mental health or socioemotional screening.

(a) As used in this section:

(1) “Mental health screening” or “socioemotional screening” means, for the purposes of this chapter, the use of one (1) or more brief, structured questionnaires designed to identify the possibility that an individual has a mental health problem;

(2) “Psychotropic medication” means a drug that exercises a direct effect upon the central nervous system and that is capable of influencing and modifying behavior. Psychotropic medication includes, but is not limited to:

- (A) Antipsychotics;
- (B) Antidepressants;
- (C) Agents for control of mania and depression;
- (D) Antianxiety agents;
- (E) Psychomotor stimulants; and
- (F) Hypnotics; and

(3) “Universal mental health or socioemotional screening” means, for the purposes of this chapter, any mental health screening program in which a group of individuals is automatically screened without regard to whether there was a prior indication of a mental health problem.

(b) Universal mental health or socioemotional screening is only permitted under the following circumstances:

(1) A parent, guardian, legal custodian or caregiver under the Power of Attorney for Care of a Minor Child Act, compiled in title 34, chapter 6, part 3, of a child under sixteen (16) years of age has provided written, active, informed and voluntarily signed consent that may be withdrawn at any time by the parent, guardian, legal custodian or caregiver under the Power of Attorney for Care of a Minor Child Act;

(2) A court requires the mental health evaluation, examination or testing;

(3) Emergency screening, evaluation, examination or testing of an individual under the Power of Attorney for Care of a Minor Child Act or screening done in connection with a disaster or epidemic; or

(4) Screening required pursuant to the early periodic screening, diagnosis, and treatment (EPSDT) program with active, written, informed, volun-

tarily signed consent as outlined in subdivision (b)(1) that may be withdrawn at any time by the parent, legal guardian, custodian or caregiver under the Power of Attorney for Care of a Minor Child Act who gave the consent.

(c) Notwithstanding any law to the contrary, a local education agency (LEA) may not use the parent's refusal to consent to administration of a psychotropic medication to a student or to a mental health screening, evaluation, testing or examination of a child or student as grounds for prohibiting the child from attending class or participating in a school-related activity or as the basis of reporting or charging child abuse, child neglect, educational neglect or medical neglect. An LEA shall not use nor threaten use of school sanctions to a student to coerce parental consent to a mental health screening, evaluation, testing or examination. A person employed by an LEA may not require that a student be evaluated or treated with any psychotropic medication or for a particular mental health diagnosis. Only the following LEA personnel may perform an evaluation for psychiatric diagnosis or treatment, or both, with written, informed, voluntarily signed consent as outlined in subdivision (b)(1) that may be withdrawn at any time by the parent, legal guardian, custodian or caregiver under the Power of Attorney for Care of a Minor Child Act who gave the consent:

- (1) A psychiatrist;
- (2) A physician with expertise in psychiatry as determined by training, education or experience;
- (3) An advanced practice registered nurse with special certification in mental health or psychiatric nursing;
- (4) An advanced practice registered nurse with expertise in mental health or psychiatric nursing as determined by training, education or experience;
- (5) A psychologist with health service provider designation;
- (6) A senior psychological examiner;
- (7) A licensed professional counselor;
- (8) A licensed clinical social worker; or
- (9) A school psychologist.

(d) Written, informed, active, voluntary consent as outlined in subdivision (b)(1) that may be withdrawn at any time by the parent, legal guardian, custodian or caregiver under the Power of Attorney for Care of a Minor Child Act must also be obtained before proceeding with any psychiatric treatment recommendations resulting from any mental health screening, evaluation, testing or examination.

(e) Subsections (b), (c), and (h) shall not be construed to:

(1) Prevent an appropriate referral under the child find system required under 20 U.S.C. § 1412, with appropriate parental consent procedures as required under 20 U.S.C. § 1414(a)(1)(D)(i);

(2) Prohibit an LEA employee from discussing any aspect of a child's behavior or academic progress with the child's parent or guardian or another appropriate school district employee, consistent with federal and state law, including the requirement of prior parental consent for the disclosure of any education records. Nothing in this subdivision (e)(2) shall be construed to modify or affect parental notification requirements for programs authorized under the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, Public Law 107-110;

(3) Prohibit an LEA employee from referring a child to LEA personnel specified in subsection (c);

(4) Prohibit referrals, counseling or support in the event of an emergency or urgent situation to include, but not be limited to, the death, suicide, attempted suicide, murder, attempted murder, serious injury or serious illness of a student, teacher, staff, member of the administration, director of schools or any other school personnel or significant individual; or

(5) Prohibit testing that is a part of a course of treatment, rehabilitation or service plan for children in the legal custody of a state agency or required by federal law applicable to such children, or as otherwise authorized under title 37, including, but not limited to, child protective services assessments or evaluations.

(f) Each LEA shall inform each parent, legal guardian, custodian or caregiver of their rights pursuant to this section and shall provide a copy of the LEA policy on the rights of parents and students as required in § 49-2-211 and a copy of the Protection of Pupil Rights (20 U.S.C. § 1232h), commonly referred to as the Tiahrt Amendment, as amended by the Parents Rights Restoration Amendment to Goals 2000, March 31, 1994, Public Law 103-227, § 1017, and included in the No Child Left Behind Law (20 U.S.C. § 6301 et seq.).

(g) The local board of education of each LEA shall adopt policies that may be reasonable and necessary to ensure implementation and enforcement of this section.

(h) An LEA or school shall notify parents or legal guardians prior to any student participating in any mental health screening. The written notice shall include:

(1) The purpose for the mental health screening;

(2) The provider or contractor providing the mental health screening;

(3) The date and time at which the mental health screening is scheduled;

and

(4) The length of time the mental health screening may last.

(i) Pursuant to § 49-1-704, a parent or legal guardian has a right to inspect and review the parent or guardian's child's education records.

49-2-126. Early postsecondary course fund.

A school may establish an early postsecondary course fund to receive donations or grants from individuals or from private corporations, associations, or other artificial entities, both nonprofit and for profit, who desire to help support an early postsecondary course offered or attempted to be established by the school. Moneys in the fund must be used solely for academic enhancement in support of the program for which the fund was created. The principal of each school establishing a fund shall appoint a committee which shall be responsible for the determination of the use of funds for the program for which the fund was created.

49-2-130. Policy excusing student to attend released time course in religious moral instruction authorized — Requirements — Liability — Credit.

(a) As used in this section, "released time course" means a period of time during which a student is excused from school to attend a course in religious moral instruction taught by an independent entity off school property.

(b) A local board of education may adopt a policy that excuses a student from school to attend a released time course in religious moral instruction for no

more than one (1) class period per school day; provided, that:

(1) The student's parent or legal guardian signs a written consent form prior to the student's participation in the released time course;

(2) The released time course shall be conducted off public school property;

(3) The independent entity maintains attendance records and makes the records available to the LEA and the local board of education;

(4) Any transportation to and from the place of instruction, including transportation for students with disabilities, is the responsibility of the independent entity, parent, legal guardian, or student;

(5) The independent entity assumes liability for the student attending the released time course from the time that the student leaves the school until the student returns to the school;

(6) No public funds are expended and no public school personnel are involved in providing the instruction for released time courses;

(7) The student assumes responsibility for any missed schoolwork;

(8) The principal of the school, or the principal's designee, shall determine the classes from which the student may be excused to participate in the released time course; provided, that the student may not be excused to participate in a released time course during any class in which subject matter is taught for which the state requires an examination for state or federal accountability purposes; and

(9) The released time courses shall coincide with school class schedules.

(c) The LEA, the local board of education, the local governing authority, and the state shall not be liable for the student who participates in the released time course.

(d) The written consent form under subdivision (b)(1) shall provide a disclaimer that:

(1) Eliminates any actual or perceived affirmative school sponsorship or attribution to the LEA of an endorsement of a religious instruction; and

(2) Waives any right of the student's parent or legal guardian to hold the school, the LEA, the employees of the school or LEA, or the state liable for the student participating in a released time course.

(e) Instructors of released time courses are not required to be licensed or certificated pursuant to chapter 5 of this title. Instructors and other employees of the released time courses shall be hired by the independent entity.

(f) A student who attends a released time course shall be credited with time spent as if the student attended school, and the time shall be calculated as part of the actual school day.

(g)(1) A local board of education may adopt a policy to award students credit for work completed in a released time course that is substantiated by a transcript from the entity that provided the released time course. If a board adopts a policy in accordance with this subsection (g), then a student may be awarded one-half ($\frac{1}{2}$) unit of elective credit for the completion of each released time course.

(2) In order to determine whether elective credit may be awarded for the student's completion of a released time course, the local board of education shall evaluate the course in a neutral manner that does not involve any test for religious content or denominational affiliation. For purposes of this subsection (g), the secular criteria used to evaluate a released time course may include:

(A) The amount of classroom instruction time;

746

(B) The course syllabus, which reflects the course requirements and any materials used in the course;

(C) Methods of assessment used in the course; and

(D) Whether the course was taught by an instructor licensed pursuant to chapter 5 of this title.

49-2-134. Policies and procedures for funds raised for noneducational purposes.

(a) A local board of education may authorize a teacher, school employee, or other person employed by the LEA to raise funds for noneducational purposes.

(b) A local board of education that authorizes a teacher, school employee, or other person employed by the LEA to raise funds for noneducational purposes shall develop, adopt, and provide the LEA with policies and procedures for use of the funds, including policies and procedures for the receipt, disbursement, and accounting of all funds.

(c) The policy developed by a local board of education pursuant to this section must include sources from which an employee may derive noneducational purpose funds, which may include vending machine revenue, donations, or other sources as approved by the local board of education. The policy must also include guidelines for how funds for noneducational purposes must be used, which may include bereavement, award recognition, employee morale, or banquets.

(d) Any group of persons raising money for noneducational purposes pursuant to this section and the policies and procedures of a local board of education are not considered a "school support organization" as defined by § 49-2-603.

(e) All funds raised for noneducational purposes pursuant to this section are subject to audit by the comptroller of the treasury or the comptroller's designee. The local board of education shall pay the cost of the audit and shall cooperate fully with the comptroller of the treasury or the comptroller's designee in the performance of the audit.

49-2-135. Development of before or after school programs in collaboration with 501(c)(3) nonprofit corporations.

(a) LEAs are authorized to develop before or after school programs in collaboration with 501(c)(3) nonprofit corporations that may provide assistance in selecting and appointing qualified volunteers for the programs.

(b) The programs authorized in subsection (a) must focus on kindergarten through grade three (K-3) before or after school activities designed to improve student achievement in the academic subjects of reading, math, science, social studies, and fine arts.

(c) Any 501(c)(3) nonprofit corporation recognized under this section must meet all applicable rules of the state board of education and the policies and procedures of the LEA in which the corporation's volunteers are assisting and ensure the volunteers undergo criminal history record checks and otherwise meet all of the requirements of § 49-5-413.

(d) An LEA must approve a recognized 501(c)(3) nonprofit corporation to assist in the LEA's schools before the corporation's volunteers may begin assisting students in a school.

(e) An LEA that develops a program in accordance with this section has the authority to remove the recognized 501(c)(3) nonprofit corporation or any of the corporation's volunteers from the program.

49-2-202. Members and meetings.

(a)(1) Members of the board shall be residents and voters of the county in which they are elected and shall be citizens of recognized integrity, intelligence and ability to administer the duties of the office.

(2) No member of the county legislative body nor any other county official shall be eligible for election as a member of the county board of education.

(3)(i) Each member of the board of education who has a relative employed by the board shall declare such relationship prior to voting on any matter of business that shall have an effect upon the employment of the relative. In making the declaration, such board member shall certify that the vote that is about to be cast on the pending matter is in the best interest of the school system. Such matters shall include, but shall not be limited to, the school system annual budget, tenure considerations and personnel policies. The director of schools shall give notice to the board each time there is intent to employ a relative of a school board member. The director of schools of a county school system shall also give notice to the county school board each time there is intent to employ a relative of an elected county official. The director of schools of a city school system shall also give notice to the city school board each time there is intent to employ a relative of an elected city official. In giving such notice, the director of schools shall certify that the prospective employee is duly qualified by training and licensure to occupy the position.

(ii) As used in this subdivision (a)(3), unless the context otherwise requires, "relative" means a spouse, parent, parent-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, or any person who resides in the same household as any of the officials referenced in subdivision (a)(3)(i).

(iii) This subdivision (a)(3) shall not be construed to prohibit two (2) or more relatives from working for the LEA. If two (2) or more employees who are relatives are within the same direct line of supervision, or become within the same direct line of supervision by marriage or promotion, then the director of schools shall attempt to resolve this issue by transfer of one (1) of the employees. If the director finds that transfer is not feasible or is not in the best interest of students, then an alternate evaluation plan shall be devised for one (1) of the employees.

(4) No person shall be eligible to serve on the board unless the person is a bona fide resident of the county and has a practical education; provided, that beginning on October 1, 1990, except in counties having a population of:
not less than nor more than

14,940	15,000
49,400	49,500
74,500	74,600

according to the 1980 federal census or any subsequent federal census, no person shall qualify as a candidate for a position on a county board of education until the person has filed with the county election commission proof that the candidate graduated from high school or received a GED®, evidenced by a diploma or other documentation satisfactory to the commission. Any person serving on a school board as of October 1, 1990, shall be

748

allowed to continue to serve and to seek reelection or reappointment to one (1) additional term even though the person may not have graduated from high school or received a GED[®].

(5) If any member ceases to reside in the county, the office of the member shall become vacant.

(6) All board members shall be properly trained during their service on the board of education. The minimum requirements for this training shall be established by the state board of education and shall include an annual session for all board members.

(b) All members of the local board of education shall take oath to discharge faithfully the duties of the office.

(c) It is the duty of the board of education to:

(1) Hold regular meetings at least quarterly for the purpose of transacting public school business; provided, that the chair may call special meetings whenever in the chair's judgment the interest of the public schools requires it, or when requested to do so by a majority of the board. The chair or the chair's designee shall give reasonable notice of the time and location of all meetings to the president of the local education association or the president's designee; and

(2) Elect one (1) of its members as chair annually.

(d) The compensation of members of the county board shall be fixed by the county legislative body for their services when attending regular and special meetings and discharging the duties imposed by this title; provided, that the county trustee shall pay no voucher issued to members unless the voucher has been approved by the county mayor; and provided, further, that no member of any board shall receive less than four dollars (\$4.00) per day for the member's services.

(e)(1) When a vacancy occurs, the unexpired term shall be filled at the next regular meeting of the county legislative body or at a special meeting of the county legislative body.

(2) Vacancies shall be declared to exist, on account of death, resignation or removal from the county.

(3) A temporary absence of a county board member to serve in the military shall not constitute a vacancy in office and such absence shall not be subject to the requirements of § 8-48-205(5).

(f) Notwithstanding § 49-2-201 and this section to the contrary, the board of education for each LEA that operates one (1) or more high schools may annually select, prior to commencement of the new school year, high school students to serve as advisory, nonvoting members of the board. If a board of education selects high school students to serve as advisory, nonvoting members of the board, then the board shall not select more than four (4) students to serve each year. The students serve without compensation but may, at the discretion of the board, be reimbursed for reasonable and necessary expenses incurred while engaged in board business.

(g) A majority of all of the members constituting the board, and not merely a majority of the quorum, shall be required to transact all business coming before the board in regular or special meetings.

49-2-203. Duties and powers.

(a) It is the duty of the local board of education to:

(1) Elect, upon the recommendation of the director of schools, teachers who have attained or are eligible for tenure and fix the salaries of and make written contracts with the teachers;

(A) No individual shall be elected to an interim contract unless the individual so elected is to fill a vacancy created by a leave of absence as set forth in § 49-5-702;

(B) All contracts with educational assistants will be for nonteaching positions;

(C) Educational assistants shall be subject to direct supervision of certificated teachers when directly involved in the instructional program;

(D) No member of any local board of education shall be eligible for election as a teacher or any other position under the board carrying with it any salary or compensation;

(2) Manage and control all public schools established or that may be established under its jurisdiction;

(3) Purchase all supplies, furniture, fixtures and material of every kind through the executive committee;

(A) All expenditures for such purposes may follow the prescribed procedures of the LEA's respective local governing body, so long as that body, through its charter, private act or ordinance has established a procurement procedure that provides for advertisement and competitive bidding, except that, if a newspaper advertisement is required, it may be waived in case of emergency. If the LEA chooses not to follow the local governing body's purchasing procedures, all expenditures for such purposes estimated to exceed ten thousand dollars (\$10,000) or more shall be made on competitive bids, which shall be solicited by advertisement in a newspaper of general circulation in the county, except that the newspaper advertisement may be waived in the event of emergency. School districts that have a purchasing division may use a comprehensive vendor list for the purpose of soliciting competitive bids; provided, that the vendors on the list are given notice to bid; and provided, further, that the purchasing division shall periodically advertise in a newspaper of general circulation in the county for vendors and shall update the list of vendors following the advertisement;

(B) If the LEA chooses not to follow the local governing body's purchasing procedures, all purchases of less than ten thousand dollars (\$10,000) may be made in the open market without newspaper notice, but shall, whenever possible, be based upon at least three (3) competitive bids;

(C)(i) For construction of school buildings or additions to existing buildings, the LEA may follow prescribed procedures of its respective local governing body, so long as that body, through its charter, private act or ordinance has established a procurement procedure that provides for advertisement and competitive bidding. If the LEA chooses not to follow the local governing body's procedure, the board shall contract, following open bids, for the construction of school buildings or additions to existing buildings, the expenditure for which is in excess of ten thousand dollars (\$10,000). Public notice shall be given at least ten (10) days in advance of accepting bids for the construction, and the board shall award the contract to the lowest and best bidder. Whether following local governing body procedures or those set forth in this subdivision (a)(3)(C)(i), in the event no bid is within the budgetary limits

set by the board for the construction, the board may negotiate with the lowest and best bidder to bring the cost of the construction within the funds available, with the approval of the commissioner of education;

(ii) Construction management services that are provided for a fee and that involve preconstruction and construction administration and management services are deemed to be professional services and may be performed by a qualified person licensed under title 62, chapter 6. Construction management services are to be procured for each project through a written request for proposals process through advertisement made pursuant to subdivision (a)(3)(A). A board may include, in a single written request for proposal process, new school construction or renovation projects at up to three (3) sites, if construction at all sites will occur at substantially the same time. The written request for proposals process will invite prospective proposers to participate and will indicate the service requirements and the factors used for evaluating the proposals. The factors shall include the construction manager's qualifications and experience on similar projects, qualifications of personnel to be assigned to the project, fees and costs or any additional factors deemed relevant by the procuring entity for procurement of the service. Cost is not to be the sole criterion for evaluation. The contract for such services shall be awarded to the best qualified and responsive proposer. A construction manager is prohibited from undertaking actual construction work on a project over which the construction manager coordinates or oversees the planning, bid or construction phases of the project, except in instances where bids have been solicited twice and no bids have been submitted. If the construction manager can document that a good faith effort was made in each bid solicitation to obtain bids and no bids were received, then the construction manager may perform the construction work at a price agreed upon by the construction manager, the architect and the owner of the project. A school system, at its own discretion, may perform work on the project with its own employees, and may include the coordination and oversight of this work as part of the services of the construction manager. Sealed bids for actual construction work shall be opened at the bid opening and the names of the contractors and their bid amounts shall be announced;

(iii) Construction management agent or advisor services for the construction of school buildings or additions to existing buildings in accordance with subdivision (a)(3)(C)(ii) may be performed by:

(a) A general contractor licensed in Tennessee pursuant to title 62, chapter 6; provided, that none of such services performed by a general contractor involve any of the services exempt from the requirements of title 62, chapter 6 as "normal architectural and engineering services" under § 62-6-102(4)(B) or (C), unless, with regard to the performance of any services defined as normal architectural and engineering services, the general contractor is also licensed as an architect or engineer under title 62, chapter 2; or

(b) An architect or an engineer licensed pursuant to title 62, chapter 2; provided, that none of such services performed by an architect or engineer involve any of the services required to be performed by a contractor within the definition of "contractor" under § 62-6-102, unless with regard to the performance of any services included within the definition of contractor, the architect or engineer

is also licensed as a contractor under title 62, chapter 6.

(iv) Construction work that is under the coordination and oversight of a construction manager shall be procured through competitive bids as provided in this subsection (a);

(D) No board of education shall be precluded from purchasing materials and employing labor for the construction of school buildings or additions to school buildings;

(E) Subdivisions (a)(3)(A), (B) and (D) apply to local boards of education of all counties, municipalities and special school districts; provided, however, that subdivisions (a)(3)(A) and (B) shall not apply to purchases by or for a county's or metropolitan government's board of education in counties with a population of not less than two hundred thousand (200,000), according to any federal census, so long as the county, through county or metropolitan government charter, private act, or ordinance, establishes a procedure regarding purchasing that provides for advertisement and competitive bidding and sets a dollar amount for each purchase requiring advertisement and competitive bidding; and provided, further, that purchases of less than the dollar amount requiring advertisement and competitive bidding shall, wherever possible, be based upon at least three (3) competitive bids. Subdivision (a)(3)(C) applies to county and municipal boards of education;

(F)(i) Notwithstanding any law to the contrary, contracts for energy-related services that include both engineering services and equipment, and have as their purpose the reduction of energy costs in public schools or school facilities shall be awarded on the basis of recognized competence and integrity and shall not be competitively bid;

(ii) In the procurement of engineering services under this subdivision (a)(3)(F), the local board may seek qualifications and experience data from any firm or firms licensed in Tennessee and interview such firm or firms. The local board shall evaluate statements of qualifications and experience data regarding the procurement of engineering services, and shall conduct discussions with such firm or firms regarding the furnishing of required services and equipment and then shall select the firm deemed to be qualified to provide the services and equipment required;

(iii) The local board shall negotiate a contract with the qualified firm for engineering services and equipment at compensation which the local board determines to be fair and reasonable to the LEA. In making such determination, the local board shall take into account the estimated value of the services to be rendered, the scope of work, complexity and professional nature thereof and the value of the equipment;

(iv) Should the local board be unable to negotiate a satisfactory contract with the firm considered to be qualified, at a price determined to be fair and reasonable, negotiations shall continue with other qualified firms until an agreement is reached;

(v) A local board having a satisfactory existing working relationship for engineering services and equipment under this subdivision (a)(3)(F) may expand the scope of the services; provided, that they are within the technical competency of the existing firm, without exercising this subdivision (a)(3)(F); and

(vi) This subdivision (a)(3)(F) shall not prohibit or prevent the energy efficient schools council from establishing required design criteria in

accordance with industry standards;

(4) Order warrants drawn on the county trustee on account of the elementary and the high school funds, respectively;

(5) Visit the schools whenever, in the judgment of the board, such visits are necessary;

(6) Except as otherwise provided in this title, dismiss teachers, principals, supervisors and other employees upon sufficient proof of improper conduct, inefficient service or neglect of duty; provided, that no one shall be dismissed without first having been given in writing due notice of the charge or charges and an opportunity for defense;

(7) Suspend, dismiss or alternatively place pupils, when the progress, safety or efficiency of the school makes it necessary or when disruptive, threatening or violent students endanger the safety of other students or school system employees;

(8) [Deleted by 2019 amendment.]

(9) Provide proper record books for the director of schools, and should the appropriate local legislative body fail or refuse to provide a suitable office and sufficient equipment for the director of schools, the local board of education may provide the office and equipment out of the elementary and the high school funds in proportion to their gross annual amounts;

(10)(A)(i) Require the director of schools and chair of the local board to prepare a budget on forms furnished by the commissioner, and when the budget has been approved by the local board, to submit it to the appropriate local legislative body;

(ii) No LEA shall submit a budget to the local legislative body that directly or indirectly supplants or proposes to use state funds to supplant any local current operation funds, excluding capital outlay and debt service;

(B)(i) Notwithstanding any other law to the contrary, for any fiscal year, if state funding to the county for education is less than state funding to the county for education during the fiscal year 1990-1991 or less than the previous fiscal year's state funding to the county for education, except that a reduction in funding based on fewer students in the county rather than actual funding cuts shall not be considered a reduction in funding for purposes of this subdivision (a)(10)(B)(i), local funds that were appropriated and allocated to offset state funding reductions during any previous fiscal year are excluded from this maintenance of local funding effort requirement;

(ii) It is the intent of subdivision (a)(10)(B)(i) to allow local governments the option to appropriate and allocate funds to make up for state cuts without being subject to a continuation of funding effort requirement as to those funds for any year during which the state reinstates the funding or restores the previous cuts, and during any subsequent year should the state fail to restore the funding cuts;

(C) Subdivision (a)(10)(A)(ii) shall not apply to a newly created LEA in any county where the county and city schools are being combined for a period of three (3) years after the creation of the LEA. The county board of education shall submit its budget to the county legislative body no later than forty-five (45) days prior to the July term or forty-five (45) days prior to the actual date the budget is to be adopted by the county legislative body if the adoption is scheduled prior to July 1;

(11) Prepare, or have prepared, a copy of the minutes of each meeting of the board of education, and provide a copy of the minutes no more than thirty (30) days after the board meeting or at the time they are provided to members of the board, if such is earlier, to the president of each local education association. Any subsequent corrections, modifications or changes shall be distributed in the same manner;

(12) Adopt and enforce, in accordance with guidelines prescribed by the state board of education pursuant to § 49-6-3002, minimum standards and policies governing student attendance, subject to availability of funds;

(13) Develop and implement an evaluation plan for all certificated employees in accordance with the guidelines and criteria of the state board of education, and submit the plan to the commissioner for approval;

(14)(A) Notwithstanding any other public or private act to the contrary, employ a director of schools under a written contract of up to four (4) years' duration, which may be renewed. No school board, however, may either terminate, without cause, or enter into a contract with any director of schools during a period extending from forty-five (45) days prior to the general school board election until thirty (30) days following the election. Any vacancy in the office of the director that occurs within this period shall be filled on a temporary basis, not extending beyond sixty (60) days following the general school board election. An option to renew a contract that exists on May 22, 2001, may be exercised within the time period set out in this subdivision (a)(14)(A). Any such person transferred during the term of the person's contract shall not have the person's salary diminished for the remainder of the contract period. The board may dismiss the director for cause as specified in this section or in chapter 5, part 5 of this title, as appropriate. The director of schools may be referred to as the superintendent and references to or duties of the former county superintendents shall be deemed references to or duties of the director of schools employed under this section. The school board is the sole authority in appointing a director of schools;

(B) Each school board shall adopt a written policy regarding the method of accepting and reviewing applications and interviewing candidates for the position of director of schools;

(C) No school board shall extend the contract of a director of schools without giving notice of the intent to do so at least fifteen (15) calendar days prior to the scheduled meeting at which action shall be taken. Further, except in cases concerning allegations of criminal or professional misconduct, no school board shall terminate the contract or remove a director of schools from office without giving notice at least fifteen (15) calendar days prior to the scheduled meeting at which action shall be taken. Notice of extension or termination of a contract of a director of schools shall include the date, time and place of the meeting, and shall comport with all other requirements of §§ 8-44-103 and 49-2-202(c)(1). The proposed action shall be published as a specific, clearly stated item on the agenda for the meeting. Such item, for the convenience of the public attending the meeting, shall be the first item on the agenda;

(15) Adopt policies on the employment of substitute teachers. The policies shall, at a minimum, address qualifications and training and shall ensure substitute teachers are subject to investigation pursuant to § 49-5-413. The policies shall also prohibit hiring any substitute teacher whose records with the state department of education indicate a license or certificate currently

in revoked status; and

(16) Develop and implement an evaluation plan to be used annually for the director of schools. The plan shall include, but shall not be limited to, sections regarding job performance, student achievement, relationships with staff and personnel, relationships with board members, and relationships with the community.

(b) The local board of education has the power to:

(1) Consolidate two (2) or more schools whenever in its judgment the efficiency of the schools would be improved by the consolidation;

(2) Require school children and any employees of the board to submit to a physical examination by a competent physician whenever there is reason to believe that the children or employees have tuberculosis or any other communicable disease, and upon certification from the examining physician that the children or employees have any communicable disease, to exclude them from school or service until the child or children, employer or employers, employee or employees furnish proper certificate or certificates from the examining physician or physicians showing the communicable disease to have been cured;

(3) Establish night schools and part-time schools whenever in the judgment of the board they may be necessary;

(4) Permit school buildings and school property to be used for public, community or recreational purposes under rules, regulations and conditions as prescribed from time to time by the board of education;

(A) No member of the board or other school official shall be held liable in damages for any injury to person or property resulting from the use of school buildings or property;

(B) The local board of education may lease buildings and property or the portions of buildings and property it determines are not being used or are not needed at present by the public school system to the owners or operators of private child care centers and kindergartens for the purpose of providing educational and child care services to the community. The leases may not be entered for a term exceeding five (5) years and must be on reasonable terms that are worked out between the school board and the owner or operator. The leasing arrangement entered into in accordance with this subdivision (b)(4)(B) shall not be intended or used to avoid any school integration requirement pursuant to the fourteenth amendment to the Constitution of the United States. The local board of education shall not execute any lease pursuant to this subdivision (b)(4) that would replace or supplant existing kindergarten programs or kindergarten programs maintained pursuant to the Minimum Kindergarten Program Law, codified in § 49-6-201. This subdivision (b)(4) shall also apply to municipal boards of education;

(5) Employ legal counsel to advise or represent the board;

(6) Make rules providing for the organization of school safety patrols in the public schools under its jurisdiction and for the appointment, with the permission of the parents, of pupils as members of the safety patrols;

(7) Establish minimum attendance requirements or standards as a condition for passing a course or grade; provided, that the requirements or standards are established prior to any school year in which they are to be applicable, are recorded in board minutes and publicized through a newspaper of general circulation prior to implementation and are printed and distributed to students prior to implementation; and provided, further, that

the requirements or standards shall not violate § 49-6-3002(b);

(8) Provide written notice to probationary teachers of specific reasons for failure of reelection pursuant to this title; provided, that any teacher so notified shall be given, upon request, a hearing to determine the validity of the reasons given for failure of reelection; provided, that:

(A) The hearings shall occur no later than thirty (30) days after the teacher's request;

(B) The teacher shall be allowed to appear, call witnesses and plead the teacher's cause in person or by counsel;

(C) The board of education shall issue a written decision regarding continued employment of the teacher; and

(D) Nothing contained in this subdivision (b)(8) shall be construed to grant tenure or the expectation of continued employment to any person;

(9) Offer and pay a bonus or other monetary incentive to encourage the retirement of any teacher or other employee who is eligible to retire. For purposes of this subdivision (b)(9), "local board of education" means the board of education of any county, municipal or special school system;

(10) Lease or sell buildings and property or the portions of buildings or property it determines are not being used or are not needed at present by the public school system in the manner deemed by the board to be in the best interest of the school system and the community that the system serves. In determining the best interest of the community, the board may seek and consider recommendations from the planning commission serving the community. No member of the local or county board or other school official shall be held liable in damages for any injury to person or property resulting from the use of the school buildings or property. No lease or sale shall be used to avoid any school integration requirement. A local board of education may also dispose of surplus property as provided in §§ 49-6-2006 and 49-6-2007, it being the legislative intent that a local board at its discretion may dispose of surplus property to private owners as well as civic or community groups as provided by this subdivision (b)(10);

(11) Establish and operate before and after school care programs in connection with any schools, before or after the regular school day and while school is not in session. State basic education program (BEP) funds and any required local matching funds cannot be used in connection with the operation of a before or after school care program. The board may charge a fee of any child attending a before or after school care program;

(12) Contract for the management and operation of the alternative schools provided for in § 49-6-3402 with any other agency of local government;

(13) Include in student handbooks, or other information disseminated to parents and guardians, information on contacting child advocacy groups and information on how to contact the state department of education for information on student rights and services;

(14) Cooperate with community organizations in offering extended learning opportunities;

(15) Apply for and receive federal or private grants for educational purposes. Notwithstanding title 5, chapter 9, part 4, except for grants requiring matching funds, in-kind contributions of real property or expenditures beyond the life of the grant, appropriations of federal or private grant funds shall be made upon resolution passed by the local board of education

and shall comply with the requirements established by the granting entity. A county board of education or city board of education shall provide a copy of such resolution to the local legislative body as notice of the board's actions within seven (7) days of the resolution's passage; and

(16) Operate ungraded or unstructured classes in grades kindergarten through three (K-3). The operation of ungraded or unstructured classes does not impair the LEA's participation in the basic education program.

(c)(1)(A) Notwithstanding title 8, chapter 44, part 1, a local board of education may conduct a scheduled board meeting by electronic means as long as the member can be visually identified by the chair, including, but not limited to, telephone, videoconferencing or other web-based media, if a member is absent because the member is required to be out of the county in which the LEA is located for the member's work, the member is dealing with a family emergency as determined by the LEA, or because of the member's military service. Only members who are out of the county for work, family emergency or military service may attend and participate in the meeting electronically.

(B) No board meeting shall be conducted with electronic participation unless a quorum of members is physically present at the location of the meeting.

(C) A board member wishing to participate in a scheduled board meeting electronically who is or will be out of the county because of work shall give at least five (5) days notice prior to the scheduled board meeting of the member's intention to participate electronically.

(D) No board member shall participate electronically in board meetings more than two (2) times per year; except, that this limitation shall not apply to a board member who is out of the county due to military service.

(E) The local board of education shall develop a policy for conducting such meetings.

(2) [Deleted by 2016 amendment.]

(d)(1)(A) Notwithstanding any law to the contrary, the local boards of education, the municipal legislative bodies, and the county legislative body are authorized to negotiate and enter into a binding agreement that addresses the municipality's or county's responsibility to remit certain gross receipt taxes owed by the municipality or county, under § 57-4-306(a)(2), as such subdivision existed prior to July 1, 2014, if:

(i) At any time prior to entering the binding agreement authorized in subdivision (d)(1)(A), a municipality or county has received from the commissioner of revenue gross receipt taxes collected by the department under § 57-4-301(c) and as authorized by § 57-4-306(a)(2), as such subdivision existed prior to July 1, 2014; and

(ii) Thereafter the municipality or county, acting in good faith did not remit the proceeds to the appropriate school fund, system, or systems as required by § 57-4-306(a)(2), as such subdivision existed prior to July 1, 2014.

(B) Such agreement, in determining the municipality's or county's responsibility to remit certain gross receipt taxes owed by the municipality or county, under § 57-4-306(a)(2), as such subdivision existed prior to July 1, 2014, may permit the municipality or county to offset its liability in whole or in part by past, present or future appropriations, expenditures, allocation of revenue, gifts, capital projects or other similar payments,

grants, or any consideration made by the municipality or county to the school system, on behalf of the school system, or otherwise directly benefitting the school system.

(2) Such agreement shall be entered into and approved no later than August 31, 2014, and shall be the final understanding of the obligations between the parties and shall not be subject to additional requests or demands. A copy of this agreement shall be filed with the comptroller of the treasury and the commissioner of revenue. If any party defaults, then the aggrieved party shall notify the comptroller of the default. The comptroller shall deliver by certified mail a written notice of such default to the defaulting party within five (5) business days of receiving the notice. In the event the defaulting party fails to cure the default within sixty (60) days of the receipt of such notice, the comptroller shall direct the commissioner to withhold future distributions of proceeds authorized under § 57-4-306(a)(2), as such subdivision existed prior to July 1, 2014, to the defaulting party. Upon the commissioner's withholding of the proceeds, an aggrieved party shall have the authority to pursue equitable relief against the defaulting party in the chancery court of Davidson County. Upon receipt of a copy of the final judgment of the court, the commissioner shall distribute all withheld proceeds to the defaulting party, which shall remit such proceeds to the aggrieved party pursuant to the judgment. If the amount of the judgment is not satisfied by the withheld proceeds, the defaulting party shall be solely responsible for remitting future proceeds to the aggrieved party pursuant to the judgment.

(3)(A) If by September 1, 2014, the local boards of education, the municipal legislative bodies, and the county legislative body fail to enter into a binding agreement as authorized under subdivision (d)(1)(A), then any party may:

- (i) Seek equitable relief in the chancery court of Davidson County; or
- (ii) Request the comptroller to undertake binding arbitration to resolve any disagreements. The comptroller shall select the arbitrator.

(B) Such equitable relief shall be limited to those proceeds received by the local political subdivision pursuant to § 57-4-306(a)(2), as such subdivision existed prior to July 1, 2014, and not remitted to the proper fund, system or systems as required by § 57-4-306(a)(2), as such subdivision existed prior to July 1, 2014, from July 1, 1999, to June 30, 2014. The amount owed the appropriate school fund, system, or systems may be paid in equal installments, but not to exceed ten (10) years.

(C) All costs incurred by the comptroller of the treasury and the department of revenue under this subdivision (d)(3) shall be born equally by the parties.

(D) In the event a party fails to pursue the remedies available pursuant to subdivision (d)(3)(A)(i) or (d)(3)(A)(ii) by December 31, 2014, then the party shall be barred from any other relief for proceeds received by a local political subdivision prior to July 1, 2014.

(4) As the historical records of the comptroller of the treasury and the department of revenue permit, the comptroller of the treasury is authorized to provide to the local boards of education, the municipal legislative bodies, and the county legislative body the amount of the proceeds distributed to the local political subdivisions by the department under § 57-4-306(a)(2), as such subdivision existed prior to July 1, 2014.

758

(5) This subsection (d) shall not apply to any action, case, or proceeding commenced prior to June 1, 2014.

(6) Any agreement to address a municipality's or county's responsibility to remit certain gross receipt taxes owed by the municipality or county under § 57-4-306(a)(2) entered into prior to May 13, 2014, is hereby ratified and this subsection (d) shall not apply to such agreements.

(7) This subsection (d) shall not apply in counties having a population, according to the 2010 federal census or any subsequent federal census of:
not less than: nor more than:

98,900
336,400

99,000
336,500

49-2-207. Policy pamphlets.

(a) The local board of education shall compile and publish an official operating policy pamphlet, which shall contain, but not be limited to, such procedures as have been established by letter, directive, written or verbal memorandum, custom or tradition, and by which schools are managed, operated or controlled. Such policy pamphlet shall be updated every two (2) years.

(b) "Pamphlet" may mean a loose-leaf binder.

(c) A copy of the updated board of education operating policy pamphlet shall be distributed to each principal of each local school system to be kept on file and available in each school library during and immediately after normal school hours. Board of education operating policies kept in electronic format and available in each school library shall satisfy the requirements of this subsection (c).

(d) [Deleted by 2019 amendment.]

(e) Added or amended policies and a notice of each deleted policy shall be kept on file and available in each school library.

(f) If a local board's operating policies are kept in electronic format, and if the board also maintains an Internet web site, then the board shall make its operating policies available and accessible on that web site.

(g) The commissioner shall be authorized and directed to take appropriate action to enforce this section.

49-2-213. Removal of local board of education member by registered voters.

(a) A local board of education member that is elected, or appointed to fill a vacancy, under this chapter may be removed from office by the registered voters of the county.

(b)(1) A person who resides within the geographic boundaries of the local board of education district of which a local board of education member is sought to be removed may file a petition with the county election commission that demands the recall of the local board of education member. The petition must be signed by registered voters who reside within the geographic boundaries of the local board of education district of which the local board of education member is sought to be removed equal in number to at least sixty-six percent (66%) of the total vote cast for that member in the last

regular election. Each person signing the petition must sign the person's name, provide the date of signing, and provide the signer's place of residence by street and number or by other customary designation.

(2) The petition must contain a general statement of the grounds upon which the removal is sought.

(3) A petition must include a sworn affidavit by the petition circulator stating the number of petition signers, that each petition signature is the genuine signature of the person whose name it purports to be, and that the signatures were made in the presence of the affiant.

(4) Within fifteen (15) days of receipt of the petition, the county election commission shall determine the sufficiency of the petition signatures. The county election commission shall attach a certificate to the petition with the results. If the county election commission determines the petition signatures are:

(A) Sufficient, then, within seven (7) days of such determination, the county election commission shall give notice of the filed petition by publication in a newspaper of general circulation and shall provide the grounds upon which removal of a local board of education member is sought; or

(B) Insufficient, then the person who filed the petition may amend the petition within ten (10) days from the date of the certificate and file the amended petition with the county election commission. Within fifteen (15) days of receipt of an amended petition, the county election commission shall make a sufficiency determination. If the amended petition is still deemed insufficient or if no amended petition is filed, then the county election commission shall attach a certificate to the petition and return the petition to the person who filed the petition. If an amended petition is deemed sufficient, then the county election commission shall provide notice as required by subdivision (b)(4)(A).

(c) A separate petition must be filed for each local board of education member sought to be removed.

(d) A county election commission shall call an election on the question of whether to recall a local board of education member if the county election commission determines that a petition is sufficient in accordance with subdivision (b)(4). The question must only be posed to voters who are represented by the local board of education member sought to be removed. The question on the ballot must ask whether the local board of education member should be recalled, and the voter must be provided the option to vote "for recall" or "against recall." If sixty-six percent (66%) or more of those voting vote "for recall," then the person named shall be declared removed from office and the office must be declared vacant. A vacancy must be filled in accordance with § 49-2-202(e). No election for the purpose of recall shall be held within a period beginning ninety (90) days before and ending ninety (90) days after a regular election.

(e) This section only applies in counties having a population of not less than ninety-eight thousand two hundred (98,200) nor more than ninety-eight thousand three hundred (98,300), according to the 2010 federal census or any subsequent federal census.

49-2-301. Director of schools.

(a) Each local board of education is authorized to employ a director of schools, as provided for in § 49-2-203, subject to requirements of law. This director of schools may be referred to as superintendent, but all references to or duties or powers of the former county superintendents of public instruction shall be deemed to be references to or powers or duties of the director of schools. Failure to change a reference to county superintendent to superintendent or director of schools shall not be deemed to continue to revive the former office or position of county superintendent, it being the intention in this part to convert the former elected office of superintendent of public instruction to an administrative position filled by the applicable local board of education.

(b)(1) It is the duty of the board of education to assign to its director of schools the duty to:

(A) Act for the board in seeing that the laws relating to the schools and rules of the state and the local board of education are faithfully executed;

(B) Attend all meetings of the board and to serve as a member of the executive committee of the board, without additional compensation;

(C) Keep on electronic disks and in well bound books, furnished by the board, a complete and accurate record of the proceedings of all meetings of the board and of the director's official acts;

(D) Keep on electronic disks and in well bound books, furnished by the board and arranged according to the regulations prescribed by the commissioner of education, a detailed and accurate account of all receipts and disbursement of the public school funds;

(E) Issue, within ten (10) days, all warrants authorized by the board for expenditures for public school funds;

(F) Make such recommendations to the board as the director deems for the best interest of the public schools, but in no case shall the director have a vote on any question coming before the board;

(G) Have general supervision of all schools, and visit the schools from time to time, and advise with the teachers and members of the board as to their condition and improvement;

(H) Require the use of the state course of study for all the public schools and the system of promoting pupils through the several grades of the public schools in accordance with regulations of the commissioner, as approved by the state board;

(I) Sign all certificates and diplomas of pupils who complete the courses of study prescribed for the elementary and high schools;

(J) Recommend to the board teachers who are eligible for tenure or notify such teachers of their failure of reelection pursuant to § 49-5-409;

(K) Recommend to the board salaries for teachers in accordance with the salary schedule and the salaries and wages of all other employees nominated by the director of schools;

(L) Assign teachers and educational assistants to the several schools;

(M) Require all teachers to submit to the director for record their licenses or authority to teach, given by the state board, and keep a complete record of same;

(N) File all contracts entered into with teachers and employees of the board, before they begin their services in the public schools;

(O) Furnish to teachers or principals the names of pupils belonging to their respective schools, the list to be taken from the census enumeration

or other reliable records on file in the director of schools' office;

(P) Issue certificates relative to the employment of minors who are enrolled as students in the director of schools' district;

(Q) [Deleted by 2019 amendment.]

(R) [Deleted by 2019 amendment.]

(S) Make a written report, quarterly, to the appropriate local legislative body, for the board, of all receipts and expenditures of the public school funds, which accounts shall contain full information concerning the conditions, progress and needs of the schools of the school system and which shall be audited by the appropriate fiscal officer and local legislative body;

(T) Be present at all quarterly and annual settlements of the county trustee with the county mayor covering all school funds arising from state apportionments, county levies and all other sources, and report the director's acts to the director of schools' board;

(U) Report to the local legislative body and the commissioner, whenever it appears to the director that any portion of the school fund has been, or is in danger of being, misappropriated or in any way illegally disposed of or not collected;

(V) Make reports to the commissioner of education when requested by the commissioner;

(W) Prepare, annually, a budget for the schools in the director's school system, submit the budget to the board for its approval and present it to the county or other appropriate local legislative body for adoption as provided for by charter or private legislative act; provided, that:

(i) The budget shall set forth in itemized form the amount necessary to operate the schools for the scholastic year beginning on July 1, following, or on such date as provided for by charter or private legislative act; and

(ii) Any change in the expenditure of money as provided for by the budget shall first be ratified by the local board and the appropriate local legislative body;

(X) Give the director's full time and attention to the duties of the director's position;

(Y) Deliver to the director's successor all records and official papers belonging to the position. It is a Class C misdemeanor to refuse to deliver the records and files on demand of the director's successor. It is a separate offense for each month during which the director persists in withholding the records and files;

(Z) File with the commissioner of education a copy of the budget adopted by the county or other appropriate local legislative body within ten (10) days after its adoption;

(AA) Furnish to the commissioner a list of the teachers elected by the board and their respective salaries, on forms furnished by the commissioner;

(BB) Grant any licensed employee, or any other person considered as a professional employee, access at any reasonable time to the employee's personnel file or files, whether maintained by the employee's principal, supervisor, director, board or any other official of the school system;

(CC) Give any licensed or professional employee, on request and on payment of reasonable compensation, a copy of specified documents in the

employee's personnel file;

(DD) Establish a procedure whereby an updated copy of the rules, regulations and minimum standards of the state board shall be kept on file in an easily accessible place in each school library during normal school hours;

(EE) Within the approved budget and consistent with existing state laws and board policies, employ, transfer, suspend, nonrenew and dismiss all personnel, licensed or otherwise, except as provided in § 49-2-203(a)(1) and in chapter 5, part 5 of this title;

(FF) All persons who are employed in a position for which no teaching license is required shall be hired at the will of the director of schools. The local board of education shall develop a policy for dismissing such employees;

(GG)(i) The director may dismiss any nontenured, licensed employee under the director's jurisdiction for incompetence, inefficiency, insubordination, improper conduct or neglect of duty, after giving the employee, in writing, due notice of the charge or charges and providing a hearing; provided, that no nontenured, licensed employee under the director's jurisdiction shall be dismissed without first having been given, in writing:

(a) Notice of the charge or charges;

(b) An opportunity for a full and complete hearing before an impartial hearing officer selected by the board;

(c) An opportunity to be represented by counsel;

(d) An opportunity to call and subpoena witnesses;

(e) An opportunity to examine all witnesses; and

(f) The right to require that all testimony be given under oath;

(ii) Factual findings and decisions in all dismissal cases shall be reduced to written form and delivered to the affected employee within ten (10) working days following the close of the hearing;

(iii) Any nontenured, licensed employee desiring to appeal from a decision rendered in favor of the school system shall first exhaust the administrative remedy of appealing the decision to the board of education within ten (10) working days of the hearing officer rendering written findings of fact and conclusions to the affected employee;

(iv) Upon written notice of such appeal being given to the director, the director shall prepare a copy of the proceedings, transcript, documentary and other evidence presented, and transmit the copy of the proceedings, transcript, documentary and other evidence presented within twenty (20) working days of receipt of notice of appeal to the board;

(v) The board shall hear the appeal on the record and no new evidence shall be introduced. The affected employee may appear in person or by counsel and argue why the decision should be modified or reversed. The board may sustain the decision, send the record back if additional evidence is necessary, revise the penalty or reverse the decision. Before any such charges shall be sustained or punishment inflicted, a majority of the membership of the board shall concur in sustaining the charges. The members of the board shall render the decision on the appeal within ten (10) working days after the conclusion of the hearing;

(vi) The director of schools shall also have the right to appeal any adverse ruling by the hearing officer to the board under the same

conditions as are set out in this subdivision (b)(1)(GG);

(vii) Any party dissatisfied with the decision rendered by the board shall have the right to appeal to the chancery court in the county where the school system is located within twenty (20) working days after receipt of notice of the decision of the board. It shall be the duty of the board to cause to be transmitted the entire record and other evidence in the case to the court. The review of the court shall be de novo on the record of the hearing held by the hearing officer and reviewed by the board;

(HH) All actions of the directors or their designees shall be consistent with the existing board policies, rules, contracts and regulations;

(II) Perform such other official duties as may be prescribed by law; and

(JJ) [Deleted by 2019 amendment.]

(KK) Authorize each principal to make staffing decisions regarding administrative personnel for the principal's school.

(2) The records required to be maintained pursuant to this subsection (b) shall be kept in a location that is secure from the effects of natural disasters, to include fires, earthquakes, tornadoes and other catastrophic events.

(c) It is a Class C misdemeanor for any director to take any other contract under the board of education or to perform any other service for additional compensation, or for any director to act as principal or teacher in any school or to become the owner of a school warrant other than that allowed for the director's service as director. A director who violates this subsection (c) shall also be dismissed from the director's position.

(d) Any director of schools who is appointed by the local board of education elected by the general public is only required to have a baccalaureate degree.

49-2-2101. General provisions.

(a) The chief administrative officers of the public school systems, called directors of schools in this section, are authorized to form and join an organization whose membership shall be open to directors of schools in service, but membership in the organization shall not be required. Additionally, the organization shall be open to affiliate membership for principals, assistant principals, and system-wide supervisors for the purpose of professional development coursework and related activities.

(b)(1) The organization, if formed pursuant to this section and before entering upon any other activities, shall adopt a constitution, which may be amended subsequently, setting forth its purposes, which shall include, but not be limited to:

(A) The advancement of public education;

(B) The promotion of the work and interests of directors of schools, principals, assistant principals, and system-wide supervisors;

(C) The gathering and circulation of information on general school matters;

(D) The provision of pertinent information on sound education legislation to the general assembly; and

(E) The cooperation with the department of education and other agencies and organizations interested in public education.

(2) The organization may adopt bylaws and from time to time revise the bylaws.

764

(c)(1) The organization is authorized to perform all reasonable acts necessary or incidental to carrying out its purposes.

(2) The organization may receive funds in the form of membership fees from its members and contributions from individuals, organizations, and agencies, public and private, and may expend the funds for the purposes of carrying on its program, including the employment of necessary staff and consultants.

(3) Membership fees for directors of schools shall be set in the bylaws of the organization and may be paid from any local school funds budgeted for this purpose, but shall not be included in any matching funds otherwise required for participation in the basic education program (BEP).

(4) Membership fees for affiliate members shall be set in the bylaws of the organization and may be paid from any local school funds budgeted for this purpose. Funds derived for membership fees from affiliate members shall be used only for professional development purposes and related expenses. No part of these funds shall be used for the purpose of lobbying or government relations. Upon request of the chair of the education committee of the senate or the chair of the education committee of the house of representatives, a report detailing the professional development activities for affiliate members of the organization shall be submitted to the committee.

(5) No direct state appropriation or grant of state funds shall be made to this organization; however, departments and agencies of state and local governments may contract for services with the organization for which state and local revenues may be used.

(d) The organization shall not be in lieu of or infringe upon the existing superintendents' study council, which is authorized to continue as an in-service education effort of the department of education.

49-3-201. General provisions.

(a) In case the United States congress enacts any legislation of any character making grants of public moneys to the states for the purpose of promoting the cause of public education, the department of education is designated as the authority to accept and administer the funds.

(b) Nothing in this section interferes with the allocation and administration of federal funds specifically appropriated to institutions of higher education, or for specific purposes; provided, that the funds are allocated and administered in accordance with applicable federal law.

(c) In case federal legislation makes funds available for public schools, for extended services of public schools, or for providing local and state supervisory services for public schools, or in case funds are made available through federal legislation previously passed for public schools, the department of education is authorized to accept and administer these funds according to the applicable federal law.

49-3-302. Part definitions.

As used in this part, unless the context otherwise requires:

(1) "Average daily attendance" or "ADA" means the aggregate days' attendance of a given school during a given reporting period divided by the number of days school is in session during this period as provided in the rules and regulations of the state board;

(2) “Average daily membership” or “ADM” means the sum of the total number of days enrolled divided by the number of days school is in session during this period as provided in the rules and regulations of the state board;

(3) “Basic education program” or “BEP” is the funding formula for the calculation of kindergarten through grade twelve (K-12) education funding necessary for our schools to succeed;

(4) “Board” means the board of education of any LEA;

(5) “Commissioner” means the commissioner of education;

(6) “Contact hour” means an hour of student time that is supervised by licensed personnel;

(7) “Cost differential” means that factor establishing a rate of reimbursement for a program relative to the reimbursement of one (1) FTEADA in grades four through six (4-6) as established in § 49-3-306(g)(1);

(8) “Full-time equivalent” or “FTE” means the total number of contact hours in attendance in a program during one (1) school week divided by the number of hours required for a school week as established by the state board for kindergarten through grade twelve (K-12) in an LEA;

(9) “Full-time equivalent average daily attendance” or “FTEADA” means the average of the aggregated FTEs in attendance in one (1) program during the given reporting periods;

(10) “Licensed personnel” means any person employed by an LEA and for whom licensure is required as a condition of employment by law;

(11) “Local education agency” or “LEA” means any county, city, or special school district, unified school district, school district of any metropolitan form of government or any other school system established by law;

(12) “Rules and regulations” means those rules and regulations that the state board may adopt as provided in § 49-3-305;

(13) “State board” means the state board of education;

(14) “State education agency” or “SEA” means the department of education;

(15) “State salary schedule” means the salary schedule adopted by the state board for licensed personnel, which is based on training and experience;

(16) “State training and experience factor” means the average training and experience of all licensed personnel in the state based upon the table of training and experience factors adopted by the state board;

(17) “Training and experience factor” means the average training and experience of all licensed personnel in each LEA based upon the table of training and experience factors adopted by the state board;

(18) “Weighted full-time equivalent average daily attendance” or “WFTEADA” means one (1) full-time equivalent average daily attendance multiplied by the cost differential for a program; and

(19) “Weighted identified and served student with a disability” means one (1) identified and served student with a disability multiplied by the cost differential for special education.

49-3-306. Computation — Pay supplement — Licensed personnel salaries.

(a)(1)(A) The commissioner, as approved by the state board of education, shall annually formulate a table of training and experience factors and a

state salary schedule to be effective for each school year, which shall be applicable to all licensed personnel in every LEA, and which shall include an established base salary per school year consisting of a term of two hundred (200) days for beginning licensed personnel with a bachelor's degree and zero (0) years of experience. Licensed personnel having more training and experience shall receive more than the established base per school year. Certified personnel having less training and experience shall receive less than the established base per school year. The salary schedule shall not be applicable to substitute personnel. In the alternative, an LEA may submit to the commissioner its own proposed salary schedule, subject to collective bargaining where applicable. Implementation of such a salary schedule shall be subject to approval by the commissioner and the state board. In no case shall a salary schedule adopted pursuant to this subdivision (a)(1) result in the reduction of the salary of a teacher employed by the LEA at the time of the adoption of the salary schedule. Any additional expenditure incurred as a result of any such salary schedule shall be subject to appropriation by the governing body empowered to appropriate the funds.

(B) An LEA may adopt a salary schedule that is identical in either structure or designated salary levels or both to the salary schedule the LEA had in place during the 2012-2013 school year, with such schedule containing steps for each year of service up to and including twenty (20) years and for the attainment of advanced degrees at the level of masters, masters plus forty-five (45) hours of graduate credit, specialist in education and doctor of education or doctor of philosophy. In no case shall a salary schedule adopted pursuant to this subdivision (a)(1)(B) result in the reduction of the salary of a teacher employed by the LEA at the time of the adoption of the salary schedule.

(2) [Deleted by 2016 amendment.]

(b)(1) Salaries shall be payable in at least ten (10) monthly installments during any school year.

(2) State education funds received by any LEA for the state salary schedule shall be payable in equal installments starting with the first regular pay period.

(3) The salary for part-time personnel shall be proportionately less than that provided for full-time personnel.

(4)(A) Nothing in this section shall prevent any LEA from supplementing salaries from its own local funds when the funds are in addition to the local contribution of the LEA.

(B)(i) When funds are appropriated through the basic education program (BEP) funding formula for instructional salaries and wages, all such funds must be expended by an LEA on instructional salaries and wages; provided, however, if an LEA's average licensed salary exceeds the statewide average salary, such funds may also be expended on instructional benefits.

(ii) The department of education shall make adjustments to each LEA's required expenditure pursuant to subdivision (b)(4)(B)(i) to account for any unfunded growth in the prior year and the loss of any instructional funding appropriated for the 2015-2016 school year.

(iii) For the purposes of subdivision (b)(4)(B)(i), the salary figure recognized by the BEP review committee to analyze salary disparity

pursuant to § 49-1-302(a)(4)(B) shall be utilized.

(C)(i) An LEA shall maintain its budgeted level of local funding for salaries and wages from the prior year, with exceptions made for loss of enrollment, and shall not utilize increases in state funding for instructional salaries and wages to offset local expenditures in these categories.

(ii) For each year that an LEA receives an increase in state funding for instructional salaries and wages, the LEA shall report to the department of education how the additional funds were utilized. The department shall report the information to the BEP review committee and the BEP review committee shall include the information in the committee's annual report on the BEP required under § 49-1-302.

(c) A board may, with the approval of the commissioner, make such readjustment in the salary of licensed personnel as may be necessary to place the salary in fair relation to the salaries of other licensed personnel in the same LEA with comparable tenure, responsibility, training and experience; except that the affected licensed personnel shall be entitled to a hearing before the board. In computing the salaries required to be maintained by this subsection (c), only the part of the salaries paid under the authority of any LEA need be maintained. No LEA shall be required to supply any decrease in funds formerly available to supplement salaries from other than local sources.

(d) Notwithstanding any other law to the contrary, any board may increase the salaries of its employees at any time during the school year, upon the basis of a new or amended contract, if in so doing it does not exceed its budget as adopted or amended. For an LEA that meets class size requirements under § 49-1-104, nothing in this subsection (d) shall be construed to prohibit BEP funds generated in salary components for nonlicensed personnel to be used to increase salaries for currently employed nonlicensed personnel except where the funds are generated for new or additional positions.

(e) Each LEA shall establish a local salary schedule for all licensed personnel in the LEA, and the schedule shall include, as a minimum, the same salary level or levels based upon college preparation as established by the state board in the state salary schedule. For fiscal year 2004-2005, the schedule shall include, as a minimum, the schedule recommended by the commissioner for salary equalization purposes under subdivision (a)(2).

(f) The LEA's training and experience factor shall be calculated by the SEA as follows: by using the table of training and experience factors adopted by the state board, the SEA will classify all licensed personnel employed by the LEA on December 1, or the first full teaching day thereafter, according to training and experience as provided in the rules and regulations and compute the average training and experience factor for such personnel.

(g)(1) Establishment of programs and cost differentials shall be as follows:

(A) Regular academic:

Kindergarten (K) through grade three (3)	1.20
Grades four (4) through six (6)	1.00
Grades seven (7) and eight (8)	1.10
Grade nine (9)	1.20
Grades ten (10) through twelve (12)	1.30

(B) Career and technical education:

Agriculture	2.62
Consumer and homemaking, health occupations	2.10
Trade and industrial	2.48

768

Related trade and industrial	1.84
Office and distributive education	2.04
(C) Special education:	
Identified and served handicapped	1.07

(2) Identified and served students with a disability shall be included in the program attendance surveys in the appropriate regular academic and career and technical education programs as provided in the rules and regulations. The special education cost differential is supplemental to the regular academic and career and technical education programs and is based on the preceding year's identified and served students with a disability.

(3) This table of programs and cost differentials shall apply to educational programs as of the opening of schools for the 1977-1978 school year. At its quarterly meeting in February 1978, and annually thereafter, the state board, as approved by the commissioner, shall establish both the education programs and the cost differentials of the programs applicable to the following school year, which may vary from the table in this subsection (g).

(h) Notwithstanding any other provision of this section to the contrary, an LEA shall develop, adopt and implement a differentiated pay plan under guidelines established by the state board of education to aid in staffing hard to staff subject areas and schools and in hiring and retaining highly qualified teachers. The plan shall be reviewed and evaluated annually to consider any change in circumstances regarding the hiring and retention of highly qualified teachers in the LEA's schools and subjects taught or any necessary revision or restructuring of the plan. No plan or revised plan shall be implemented prior to approval of the plan by the department of education. Each LEA shall implement a differentiated pay plan prior to the beginning of the 2008-2009 school year.

49-3-314. Distribution of state funds.

(a)(1) State education finance funds shall be distributed annually to the LEAs by the commissioner according to the plan set out in subsection (b) and subject to all restrictions provided by law.

(2) In making distribution of state funds to the LEAs, no allowance shall be made by the state for any school in which the right to exercise authority of the respective local director of schools and the board is not as full and ample in all phases of the school program as in any other school of the LEA.

(b)(1) Approximately one tenth ($\frac{1}{10}$) of the estimated total of the state funds annually appropriated for the BEP shall be distributed on or about August 15, and on or about the fifteenth day of each succeeding month through April 15, and the amount of the remainder due each LEA for the school year shall be determined during June of such school year. The amount of the remainder due shall be determined on the basis of the records that each LEA has furnished the commissioner. The actual delivery of the warrant covering the final distribution to an LEA shall not be made until after all records required by the commissioner have been furnished. Before a full and complete settlement is made with any LEA for any year, all records and reports required by the commissioner shall be filed with the commissioner by the LEA.

(2) The disbursement of state funds annually appropriated for the school lunch program, as defined in § 49-3-313, shall be under rules and regula-

tions prescribed by the commissioner, as approved by the state board.

(c)(1) In order for any LEA to receive state education finance funds as set forth in this part, the system shall meet the conditions and requirements set out in subdivisions (c)(2) and (3). In order to enforce those conditions and requirements, the commissioner may, in the commissioner's discretion, withhold a portion or all of the state education finance funds that the LEA is otherwise eligible to receive.

(2) No LEA shall use state funds to supplant total local current operating funds, excluding capital outlay and debt service. This subdivision (c)(2) shall not apply to a newly created LEA in any county where the county and city schools are being combined for a period of three (3) years after the creation of the LEA.

(3)(A) Notwithstanding any other law to the contrary, for fiscal year 1992-1993 and any subsequent fiscal year, if state funding to the county for education is less than state funding to the county for education during the previous fiscal year, except that a reduction in funding based on fewer students in the county rather than actual funding cuts shall not be considered a reduction in funding for purposes of this subdivision (c)(3)(A), local funds that were appropriated and allocated to offset state funding reductions during any previous fiscal year are excluded from this maintenance of local funding effort requirement.

(B) It is the intent of subdivision (c)(3)(A) to allow local governments the option to appropriate and allocate funds to make up for state cuts without being subject to a continuation of funding effort requirement as to those funds for any year during which the state reinstates the funding, or restores the previous cuts, and during any subsequent year should the state fail to restore the funding cuts.

(4)(A) Notwithstanding any other law to the contrary, if, in any fiscal year, a local government appropriates funds for education for nonrecurring expenditures, including nonrecurring funds for priority schools, evidenced by a written agreement with the LEA establishing the nonrecurring use of the funds, then such funds must be excluded from the maintenance of local funding requirement and from any apportionment requirement under § 49-3-315(a). Before any such agreement takes effect, it must be reviewed by the department of education to ensure the nonrecurring nature of the expenditures.

(B) If, pursuant to subdivision (c)(4)(A), a local government appropriates nonrecurring funds for priority schools, evidenced by a written agreement with the LEA establishing the nonrecurring use of the funds, then such funds must be excluded from the maintenance of local funding requirement and from any apportionment requirement under § 49-3-315(a) for each year that the school is identified as a priority school plus one (1) additional year. Before any such agreement takes effect, it must be reviewed by the department of education to ensure the nonrecurring nature of the expenditures.

49-3-318. Career or technical education.

(a)(1) The department of education shall administer annual appropriations that are made for career and technical education, including all of the related programs for which funds have been or may be authorized or appropriated by any present or future federal act or acts having to do with or related to

career and technical education.

(2) Funds generated by the career and technical education components of the state funding formula may be used to match, as required by federal statute or statutes, funds appropriated and paid over by the federal government for the same purpose as the appropriation made for career and technical education, as referred to in this section.

(3) All expenses of administration of funds appropriated for career and technical education, as referred to in this section, shall be paid from funds generated by the career and technical components of the state funding formula as supplemented by funds received from the federal government.

(4) [Deleted by 2019 amendment.]

(b)(1) Notwithstanding subsection (a) or other law to the contrary, in any fiscal year in which funds are appropriated for career and technical education above and beyond the funds available through the Tennessee BEP for career and technical education, the additional funds shall be used to provide a system of grants to improve and enhance career and technical education. The department of education through its division of career and technical education shall establish, develop, administer and monitor the system of grants. Guidelines for the system of grants shall be developed by the division of career and technical education in consultation with the Tennessee directors of career and technical education. The system shall consist of three

(3) grant programs as follows:

(A)(i) Annual grants to each LEA that provides a program of career and technical education for:

(a) Acquisition, replacement, upgrade, maintenance and repair of materials, supplies and equipment necessary to provide, enhance and improve career and technical education programs that meet or exceed current industry standards; and

(b) If provided in the guidelines adopted by the division of career and technical education, enhancement of employment opportunities for career and technical education directors;

(ii) All funds appropriated for grants under this subdivision (b)(1)(A) shall be allocated and credited for distribution through the grant program in the same manner in which state funds are allocated and distributed to LEAs through the BEP funding formula in effect for that fiscal year;

(B) Competitive grants awarded by the department to LEAs to provide funding for:

(i) Starting new career and technical education programs that meet current industry standards, particularly in high demand, high wage industries;

(ii) Maintaining and enhancing high quality career and technical education programs that lead directly to employment or to postsecondary education; and

(iii) Implementing innovative exemplary career and technical programs that have potential for replication in other areas of the state.

(C) [Deleted by 2019 amendment.]

(2) [Deleted by 2019 amendment.]

(3) [Deleted by 2019 amendment.]

(4) [Deleted by 2019 amendment.]

(5) The use of grant funds shall be subject to audit by the office of the

comptroller of the treasury.

(6) The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this section. The rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) Annual appropriations of state funds that are made for the current operation or capital improvement of state colleges of applied technology and regional technical institutes shall be administered by the state board of regents and may be used for any purpose set forth in this subsection (c) including, but not limited to, the matching, as required by federal statute or statutes, of any funds appropriated and paid over by the federal government for any purpose or purposes related to area career and technical institute programs.

49-3-321. [Repealed.]

49-3-351. Basic education program — Funding procedure.

(a) State funds appropriated for the BEP, kindergarten through grade twelve (K-12), shall be allocated pursuant to the formula devised by the state board of education pursuant to § 49-1-302. The programs funded through this formula are the Tennessee BEP.

(1) The formula shall also include increased funding for inclusion of a capital outlay component and cost of operations adjustments. This requirement shall be implemented the first year of the Tennessee BEP.

(2) The Tennessee BEP shall include requirements prescribed by state law, regulations, rules and other required costs.

(3) Before any subsequent amendment or revision to the components of the formula of the Tennessee BEP shall become effective, it shall be submitted to the education committee of the senate and the education committee of the house of representatives for review and recommendation, and shall be approved by resolutions of the senate and house of representatives, but approval shall be on the complete plan or revision and shall not be subject to amendment of the plan or revision.

(b) Notwithstanding any other law to the contrary, except for direct appropriations in support of the career ladder program, compiled in chapter 5, part 50 of this title [repealed], the only procedure for the funding of the BEP, kindergarten through grade twelve (K-12), shall be as provided in the formula prescribed in this section, and to the extent that funds are appropriated for that purpose by the general assembly.

(c) All funds generated for the BEP shall be spent on BEP components.

(d) Notwithstanding any other section or law to the contrary, the BEP of every LEA will be calculated on the basis of prior year ADM, or FTEADM, or identified and served special education students (I&S), with the following exceptions: if the LEA's current year ADM, FTEADM, and I&S, taken as a whole, exceeds by more than two percent (2%) the prior year's ADM, FTEADM, and I&S, taken as a whole, then that LEA's allocation of state funds shall be calculated on the basis of the current year's ADM, FTEADM, and I&S less the first two percent (2%) by which it exceeds the prior year's ADM, FTEADM, and I&S. The increased amount so calculated shall be distributed to the extent funds are appropriated for that specific purpose. If the funds appropriated for

that purpose are insufficient to provide for the LEA's increased allocations, the commissioner shall apply a pro rata reduction to the increased amount each LEA is otherwise eligible to receive. If the funds appropriated for that purpose exceed the amount required to fund growth in excess of two percent (2%), then that percentage may be lowered to a percentage that may ensure that all funds appropriated are allocated and disbursed to LEAs. An estimated fifty percent (50%) of the appropriated amount shall be distributed to such an eligible LEA by February 1, with the remainder, subject to any adjustment of numbers by the department of education that may affect the remaining amount, to be distributed by the following June 30. In calculating the allocations under the BEP formula, the commissioner, with the approval of the state board of education and the commissioner of finance and administration, shall establish definitions of ADM, FTEADM, and I&S, which will be used to determine each LEA's BEP funding. It is the legislative intent that the definitions so established approximate as closely as possible full year ADM, FTEADM, and I&S.

49-3-359. BEP funding for teacher's supplies, duty-free lunch periods, and school nurses.

(a) There is included in the BEP an amount of money sufficient to pay two hundred dollars (\$200) for every teacher in kindergarten through grade twelve (K-12). This money must be used by the teachers for instructional supplies and must be given to each teacher by October 31 of each school year so that the teacher may spend it at any time during that school year on instructional supplies as determined necessary by the teacher. The purpose of these funds is to permit purchase of items of equipment for the benefit and enhancement of the instructional program. The funds cannot be used for basic building needs such as HVAC, carpets, furniture, items or equipment for the teachers' lounge, or the like. Any funds not spent by the end of the school year must be pooled at the school level and used for the purchase of items of equipment for the benefit of all teachers. Pooled funds cannot be used for basic building needs such as HVAC, carpets, furniture, items or equipment for the teachers' lounge, or the like.

(b) Each LEA shall be entitled to receive funding of no less than two dollars (\$2.00) per ADM in kindergarten through grade twelve (K-12) to be used for the purpose of providing a duty-free lunch period for each teacher.

(c)(1) There is included in the Tennessee BEP an amount of money sufficient to fund one (1) full-time public school nurse position for each three thousand (3,000) students or one (1) full-time position for each LEA, whichever is greater. An LEA may use the funds to directly employ a public school nurse or to contract with the Tennessee public school nurse program, created by § 68-1-1201(a), for provision of school health services; provided, that after the BEP is fully funded, an LEA must use the funds to directly employ or contract for a public school nurse as provided for in this subsection (c) or must advise the department of education that the LEA has affirmatively determined not to do so, in which case the LEA shall notify the department of the election against providing the service and the alternative arrangement that the LEA has made to meet the health needs of its students.

(2) Each public school nurse employed by or provided to an LEA, pursuant to subsection (a), shall meet or exceed the minimum qualifications and standards established pursuant to § 68-1-1204(a), and shall perform the

duties and responsibilities enumerated within § 68-1-1202. Each public school nurse employed by an LEA shall maintain current certification through a certifying cardiopulmonary resuscitation course consistent with the scientific guidelines of the American Heart Association in collaboration with the International Liaison Committee on Resuscitation.

(d) The amounts provided in this section may be reduced pro rata by the commissioner during any year in which the BEP appropriation is insufficient to fully fund the program.

49-3-361. [Repealed.]

49-3-403. Volunteer public education trust fund — Acceptance of funds — Accounts — Investments and expenditures.

(a) There is established within the state treasury a special trust fund for education known as the volunteer public education trust fund that shall be administered by the state treasurer and the commissioner of education as trustees.

(b)(1) The state treasurer, on behalf of the fund, is authorized to accept money contributed to the fund from any individual, association, trust, corporation, partnership, firm, venture, agency, organization, governmental entity, or political subdivision, including, but not limited to, state-appropriated funds or monetary gifts, grants, or any other monetary aids received by the program from public or private sources.

(2) [Deleted by 2018 amendment.]

(3) The state treasurer may accept funds from a private or public entity that may be earmarked for a specific purpose and for a specific local education agency (LEA), as defined in § 49-3-302, and the income from these funds must be disbursed to the LEA in the name of the private or public entity as long as the funds are used for public education.

(4) For all funds deposited into the trust fund, the income from the funds may be expended by the trustees in accordance with the trustees' operational guidelines for the expenditure of income in an amount certain to one (1) or more LEAs, subject to the earmarked purpose of the money contributed to the fund.

(5) The trust fund must be divided into the following two (2) general accounts: one (1) for public funds and one (1) for private funds.

(6) Each general account must be divided into subaccounts for each LEA to the extent that the trust fund money is allocated for a specific LEA.

(7) Corpus from the fund must be allocated to each subaccount in an amount sufficient to fund a public education purpose or project in accordance with the expenditure authorization from the trustees. All income on the corpus allocated must be paid to the subaccount.

(8) Income on the remaining corpus in each general account that has not been allocated must be maintained in a special reserve at the general account level.

(9) Income in excess of the funding for a subaccount must be maintained in a special reserve at the subaccount level.

(10) Regardless of the allocation of funds, all moneys in the trust fund may be commingled for investment purposes with other trust funds and other funds subject to investment by the state treasurer in accordance with

774

the trustees' investment policy and applicable law.

(c) Funds in the special trust fund for education established by this part shall be invested and reinvested by the state treasurer. The trust may invest in any security or investment in which the Tennessee consolidated retirement system is permitted to invest, subject to the requirements of other applicable law; provided, that investments by the trust must be governed by the investment policies and guidelines adopted by the trustees in accordance with this part.

(d) The trust income must be expended only in accordance with §§ 49-3-404 and 49-3-405 and to pay expenses incurred in administering and investing the trust assets. The corpus, as set forth in § 49-3-405, shall not be expended for any purpose. Under no circumstances shall any of the money in the fund be used for any purpose other than public education.

49-3-404. Authority of trustees.

In addition to the powers granted by this part, consistent with the purpose of the fund, the trustees have the authority to:

- (1) Develop a written plan to implement this part;
- (2) Develop investment policies for the investment of the money in the fund;
- (3) Expend income from the fund in accordance with this part;
- (4) Establish rules, policies, or guidelines relative to the expenditure of income from the fund. The rules, policies, or guidelines may contain factors or criteria for disbursements to LEAs participating in the basic education program, and may include, but not be limited to, special projects or programs that would not otherwise be funded that are deemed by the trustees to improve the overall quality of the total educational program for individual or all LEAs. The rules, policies, or guidelines may contain a competitive award process developed by the trustees that will be administered and implemented by the commissioner of education;
- (5) Promote, advertise, and publicize the fund by developing and implementing campaigns for contributions to the trust fund and programs making the public aware of the purpose and operation of the fund. In their promotion of the fund, the trustees may develop partnerships and agreements with and among state agencies, local governments, nonprofit organizations, and private entities;
- (6) Raise funds and solicit contributions to the fund on behalf of the fund;
- (7) Request from any branch, department, division, board, bureau, commission, or other agency of the state or any entity that receives state funds, such information as will enable the trustees to perform the duties contained in this part;
- (8) Contract for the provision of all or any part of the services necessary for the management, operation, promotion, advertisement, and publicizing of the fund; and
- (9) Enter into donor agreements with public or private individuals or entities contributing to the fund.

49-3-405. Corpus of trust fund — Income — Minimum trust fund amount.

The corpus of the trust fund consists of funds appropriated by the state as well as any other contributions from public or private sources in accordance

with § 49-3-403. Income from the fund includes the income from the fund's investment portfolio from whatever source derived, including, but not limited to, interest, dividends, and realized capital gains and losses. Income accruing on contributions to the fund must be deposited in the trust fund and shall not be disbursed until the minimum trust fund amount is met. The minimum trust fund amount is the threshold amount of the corpus that must be accumulated in the trust fund until income may be disbursed. The trustees shall establish the minimum trust fund amount pursuant to the plan required by § 49-3-404. Once the minimum trust fund amount is met, the trustees may allow the income on the minimum trust fund amount to be available for disbursement from the fund pursuant to the plan required by § 49-3-404. The state treasurer is authorized to establish separate accounting for the fund's corpus and income.

49-3-406. Rules.

The trustees are authorized to promulgate rules necessary to perform their responsibilities under this part. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-3-408. Nonprofit corporation for administrative services.

(a) The trustees are authorized to create a nonprofit corporation in accordance with the Tennessee Nonprofit Corporation Act, compiled in title 48, chapters 51-68, and after such incorporation, to apply for tax exempt status under 26 U.S.C. § 501(c)(3).

(b) The corporation has all the rights and powers of a nonprofit corporation under the Tennessee Nonprofit Corporation Act, and has such powers as are necessary to carry out the intent of this part, including, but not limited to, the solicitation of contributions and disbursement of funds.

49-4-708. Tennessee Promise Scholarship Act of 2014.

(a) This section shall be known and may be cited as the "Tennessee Promise Scholarship Act of 2014".

(b) As used in this section:

(1) "Continuous enrollment" has the same meaning as defined in § 49-4-902; except that a student enrolled in a Tennessee college of applied technology shall be enrolled in accordance with the institution's requirements;

(2) "Eligible high school" has the same meaning as defined in § 49-4-902;

(3) **[Effective until August 1, 2023.]** "Eligible postsecondary institution" means:

(A) A postsecondary institution that was:

(i) Eligible for the Tennessee education lottery scholarship, as defined in § 49-4-902, on July 1, 2013, and remains eligible thereafter; or

(ii) Eligible for the Tennessee education lottery scholarship, as defined in § 49-4-902(11)(D), on July 1, 2013, and thereafter, that:

(a) Develops an eligible postsecondary program leading to an associate degree; and

(b) Is a member of an accrediting agency that is recognized by the United States department of education and the Council on Higher

Education Accreditation; and

(B) A private, nonprofit technical school that:

(i) Has had its primary campus domiciled in this state for at least seventy-five (75) consecutive years;

(ii) Is accredited by the council on occupational education; and

(iii) In addition to offering diploma, certificate, and associate degree programs, offers a baccalaureate degree through an articulation agreement with a regionally accredited postsecondary institution;

(3) **[Effective on August 1, 2023.]** “Eligible postsecondary institution” means:

(A) A postsecondary institution that was eligible for the Tennessee education lottery scholarship, as defined in § 49-4-902, on July 1, 2013, and remains eligible thereafter; and

(B) A private, nonprofit technical school that:

(i) Has had its primary campus domiciled in this state for at least seventy-five (75) consecutive years;

(ii) Is accredited by the council on occupational education; and

(iii) In addition to offering diploma, certificate, and associate degree programs, offers a baccalaureate degree through an articulation agreement with a regionally accredited postsecondary institution;

(4) “Eligible postsecondary program” means a curriculum of courses leading to a certificate, diploma, or associate degree at an eligible postsecondary institution. Courses taken at a four-year postsecondary institution prior to admission in, or that fulfill prerequisite requirements for, an eligible postsecondary program shall not be considered part of the eligible postsecondary program;

(5) “Full-time student” means a student who is enrolled in a minimum of twelve (12) semester hours, or a student who is enrolled in a full-time program at a Tennessee college of applied technology. “Full-time student” includes a student with a documented learning disability who receives accommodations because of the student’s disability and who is unable to take twelve (12) semester hours per semester as a direct result of the student’s disability; provided, that the student takes the maximum number of semester hours that is established by the eligible postsecondary institution as feasible for the student to attempt;

(6) “Gift aid” means financial aid received from the federal Pell grant, the Tennessee education lottery scholarship, or the Tennessee student assistance award;

(7) “Home school student” means a student who completed high school in a Tennessee home school associated with a church-related school as defined by § 49-50-801, or an independent home school student whose parent or guardian has given notice to the local director of a Tennessee school district under § 49-6-3050(b)(1) of intent to conduct a home school;

(8) “Resident” means a student as defined by regulations promulgated by the board of regents under § 49-8-104;

(9) “Semester” has the same meaning as defined in § 49-4-902;

(10) “Tennessee Promise scholarship student” means a student admitted to and enrolled in an eligible postsecondary program; and

(11) “TSAC” means the Tennessee student assistance corporation.

(c) TSAC shall administer the Tennessee Promise scholarship program for Tennessee residents seeking an associate’s degree, certificate or diploma from

an eligible postsecondary institution under the following terms and conditions:

(1)(A) To be eligible for the scholarship a student shall be admitted to, and enrolled full-time in, an eligible postsecondary program in the fall term following:

- (i) Graduation from an eligible high school;
- (ii) Completion of high school as a Tennessee home school student;
- (iii) Obtaining a GED® or HiSET® diploma; provided, that the student obtains the GED® or HiSET® diploma prior to the student reaching nineteen (19) years of age; or
- (iv) Graduation from an out-of-state secondary school operated by the government of the United States, accredited by the appropriate regional accrediting association for the state in which the school is located, or accredited by an accrediting association recognized by the foreign nation in which the school is located. This subdivision (c)(1)(A)(iv) shall apply only to a dependent child of a military parent, as defined in § 49-4-926. Notwithstanding the definition of resident in subdivision (b)(8), this subdivision (c)(1)(A)(iv) shall apply to dependent children as described in § 49-4-926(c); and

(B) Exceptions to initial enrollment may be made for extenuating circumstances as provided in rules promulgated by TSAC;

(2) Students applying for the scholarship shall complete the Tennessee Promise scholarship application for their initial year of enrollment in accordance with the schedule determined by TSAC. Students shall complete the free application for federal student aid (FAFSA) each academic year in which they seek to receive the Tennessee Promise scholarship;

(3) To continue to receive a Tennessee Promise scholarship at an eligible two-year or four-year postsecondary institution, a student shall maintain a minimum cumulative grade point average of 2.0 as set forth in the rules promulgated by TSAC. To continue to receive a Tennessee Promise scholarship at a Tennessee college of applied technology, a student shall maintain satisfactory academic progress as determined by the institution;

(4) Scholarship recipients shall participate in mentoring and community service programs under the rules promulgated by TSAC. TSAC shall develop the selection and renewal criteria for students and shall have the authority to work with outside organizations to develop the most effective means for delivering the scholarships. In selecting outside organizations for participation in the Tennessee Promise scholarship program, TSAC shall give preference to locally established entities that meet designated standards specified by the program's promulgated rules;

(5) A Tennessee Promise scholarship at a Tennessee public two-year postsecondary institution or Tennessee college of applied technology shall be the cost of tuition and mandatory fees at the eligible postsecondary institution attended less all other gift aid. Gift aid shall be credited first to the student's tuition and mandatory fees;

(6) Notwithstanding subdivision (c)(5), the amount of the Tennessee Promise scholarship at an eligible four-year public postsecondary institution or an eligible private institution shall be the average cost of tuition and mandatory fees at the public two-year postsecondary institutions less all other gift aid. Gift aid shall be credited first to the average tuition and mandatory fees as described in subdivision (c)(5);

(7) A Tennessee Promise scholarship student who has an approved medical or personal leave of absence from an eligible postsecondary institu-

tion may continue to receive the scholarship upon resuming the student's education at an eligible postsecondary institution so long as the student continues to meet all applicable eligibility requirements. The sum of all approved leaves of absence shall not exceed six (6) months, except as provided for in rules promulgated by TSAC;

(8)(A) A student shall be eligible for the Tennessee Promise scholarship until the occurrence of the first of the following events:

(i) The student has earned a diploma or associate degree; or

(ii) The student has attended an eligible postsecondary institution as a Tennessee Promise scholarship student for five (5) semesters if the institution is on a semester system, or its equivalent if the institution is on a system other than a semester system. Such semester limit shall not include an approved leave of absence;

(B) A student with a documented learning disability shall be eligible for the Tennessee Promise scholarship until the occurrence of the first of the following events:

(i) The student has earned a diploma or associate degree; or

(ii) The student has attended an eligible postsecondary institution as a Tennessee Promise scholarship student for the minimum number of semesters the eligible postsecondary institution establishes as feasible for the student to complete the course work for the diploma or degree the student is attempting to obtain, if the institution is on a semester system, or its equivalent if the institution is on a system other than a semester system. Such semester limit shall not include an approved leave of absence;

(9)(A) To be eligible for a Tennessee Promise scholarship, a student shall maintain continuous enrollment as a full-time student in each semester while receiving the scholarship;

(B) The requirement of subdivision (c)(9)(A) that a Tennessee Promise scholarship student maintain continuous enrollment does not apply to a Tennessee Promise scholarship student who is on a medical or personal leave, as approved by the student's eligible postsecondary institution;

(10) Notwithstanding the requirement of subdivisions (c)(1) and (9)(A) that a Tennessee Promise scholarship student maintain full-time enrollment, a student who does not have a documented learning disability may enroll in fewer than twelve (12) semester hours if required by the academic program in which the student is enrolled. A student with a documented learning disability shall enroll each semester in the maximum number of semester hours that is established by the eligible postsecondary institution as feasible for the student to attempt; and

(11) TSAC is authorized to promulgate rules to establish deadlines for applications, and appeal procedures for the denial or revocation of the scholarship, and to otherwise effectuate the purposes of this part. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) The Tennessee Promise scholarship endowment fund is created. The Tennessee Promise scholarship endowment fund shall be established and funded under the following terms and conditions:

(1) This fund shall be an irrevocable trust that the state treasurer shall administer. The attorney general and reporter shall approve the terms of the trust instrument. The trust shall consist of the Tennessee Promise endowment account and the Tennessee Promise scholarship special reserve

account;

(2) The trustees of the trust shall be as follows:

(A) The governor, or a member of the governor's cabinet or a cabinet-level staff member who is designated by the governor;

(B) The state treasurer or the treasurer's designee;

(C) The comptroller of the treasury or the comptroller's designee;

(D) The secretary of state or the secretary's designee;

(E) The commissioner of finance and administration or the commissioner's designee;

(F) The chair of the finance, ways and means committee of the house of representatives or the chair's designee;

(G) The chair of the finance, ways and means committee of the senate or the chair's designee; and

(H) One (1) member appointed by the governor who shall serve at the pleasure of the governor;

(3) The state treasurer shall serve as the chair of the trustees and shall preside over all meetings and proceedings of the trustees;

(4) The trust may invest in any security or investment in which the Tennessee consolidated retirement system is permitted to invest; provided, that investments by the trust shall be governed by the investment policies and guidelines adopted by the trustees of the trust in accordance with this part. The state treasurer shall be responsible for the investment and reinvestment of trust funds in accordance with the policies and guidelines established by the trustees;

(5) The trust shall be initially funded in fiscal year 2014-2015 by a deposit of:

(A) The program-generated revenues of TSAC invested as a part of the chairs of excellence endowment fund established by § 49-7-501 and pursuant to Chapter 98 of the Public Acts of 2013, and any income earned from the investment of such funds; and

(B) The balance of the lottery for education account established in accordance with § 4-51-111(b), but excluding the general shortfall reserve subaccount provided in § 4-51-111(b)(3) and the sum of ten million dollars (\$10,000,000);

(6) The initial deposit shall constitute the principal of the trust. Subsequent transfers to the trust and trust income, as defined in this section, shall not increase, or constitute an addition to, the principal of the trust, but shall be placed in the Tennessee Promise scholarship special reserve account provided in subdivision (d)(9);

(7) Beginning in fiscal year 2014-2015, all funds in the lottery for education account, established in § 4-51-111(b), in excess of the sum of the general shortfall reserve subaccount provided in § 4-51-111(b)(3) and ten million dollars (\$10,000,000), shall be transferred on at least an annual basis to the Tennessee Promise scholarship special reserve account, or more frequently as determined by the state treasurer and the commissioner of finance and administration. Such transfers shall occur after all required expenditures have been made for Tennessee education lottery scholarship programs, Tennessee student assistance awards, and administrative expenses, and after any required deposits into the general shortfall reserve subaccount have been made. The Tennessee Promise scholarship special reserve account shall be a part of the trust, and the funds in the special reserve account may be commingled with, co-invested with, and invested or

reinvested with the other assets of the trust;

(8) The principal of the trust shall not be expended for any purpose. Trust income shall be expended only to fund the Tennessee Promise scholarship program and pay expenses incurred in administering and investing the trust assets. Trust income means the income from the trust's investment portfolio from whatever source derived, including, but not limited to, interest, dividends, and realized capital gains or losses;

(9) Any trust income not allocated or distributed to the beneficiaries of the Tennessee Promise scholarship program shall be maintained in a Tennessee Promise scholarship special reserve account and may be subject to future allocations and distributions in accordance with this section;

(10) Any funds transferred for the Tennessee Promise scholarship program after the initial deposit in subdivision (d)(5), including matching funds or future appropriations made by the general assembly, shall be placed in the Tennessee Promise scholarship special reserve account of the trust. Unexpended funds remaining in the trust in any fiscal year, whether principal or funds in the Tennessee Promise scholarship special reserve account shall not revert to the general fund;

(11) The funds transferred to this trust may be commingled with, co-invested with, and invested or reinvested with other assets transferred to the trust. All or a portion of the trust may be invested, reinvested and co-invested with other funds, not a part of the trust, which are held by the state treasurer, including, but not limited to, assets of the Tennessee consolidated retirement system and the state pooled investment fund established pursuant to title 9, chapter 4, part 6. The state treasurer shall account for such trust funds in one (1) or more separate accounts in accordance with this section and other law;

(12) Notwithstanding any law to the contrary, all funds placed in the Tennessee Promise scholarship special reserve account shall be available for allocation and distribution as authorized herein only to the extent that funds are available in the Tennessee Promise scholarship special reserve account, and the state shall not be liable for any amount in excess of such sum. All requests for withdrawals for the payment of program funding that are presented to the state treasurer shall be used only to fund the Tennessee Promise scholarship program. Such requests for withdrawals shall not be commingled with requests for withdrawals presented to the state treasurer for any other purpose, and the individual or entity requesting the withdrawal of funds shall attest to the same upon presentation of the request for withdrawal to the state treasurer; and

(13) The provisions of the irrevocable trust are provided in this subsection (d), but the trust shall not include the provisions contained in other subsections of this section, which shall be subject to amendment by legislative enactment.

(e) TSAC and the Tennessee higher education commission shall provide assistance to the general assembly by researching and analyzing data concerning the scholarship program created under this part, including, but not limited to, student success and scholarship retention. TSAC shall report its findings annually to the education committee of the senate and the education committee of the house of representatives by March 15.

(f) The comptroller of the treasury, through the comptroller's office of research and education accountability, shall review and study the Tennessee

Promise scholarship program to determine the effectiveness of the program. The study shall be done in the third year of the program and every four (4) years thereafter. The comptroller of the treasury shall report the findings and conclusions of the study to the speakers of the senate and house of representatives and the members of the education committee of the senate and the education committee of the house of representatives.

(g) The TSAC board of directors shall appoint a special advisory committee comprised of representatives from existing college access programs in the state. The committee shall take steps necessary to eliminate barriers to access to scholarships and hold mentoring organizations to the highest standard in serving the students receiving the scholarship. Members of the committee shall serve without compensation.

(h)(1) To encourage public school teachers to volunteer to be mentors in the Tennessee Promise scholarship program, teachers may be granted credit for up to one (1) day of in-service each year for becoming mentors and completing all required mentorship tasks. The one (1) day of credit for mentoring shall count as one (1) day of in-service for those days in which a teacher is permitted to choose the in-service activity.

(2)(A) To encourage retired teachers to volunteer to be mentors in the Tennessee Promise scholarship program, participation in the Tennessee state employee discount program, except for the tuition waivers granted to state employees under § 8-50-114 and tuition discounts granted to children of state employees under § 8-50-115, shall be granted to retired teachers who become mentors and complete all required mentorship tasks.

(B) Retired teachers who mentor Promise recipients shall be eligible for the Tennessee state employee discount program, as provided in subdivision (2)(A), for one (1) year following the completion of all required mentorship tasks for an academic year.

49-4-903. Administration of scholarship and grant programs.

(a) The scholarship and grant programs established by this part shall be administered by TSAC, which shall be responsible for determination of eligibility of students and for the distribution of funds appropriated by the general assembly for scholarships and grants awarded under the program. In the event net proceeds from lottery revenues are insufficient to fund fully the scholarships and grants created by this part, then TSAC is authorized to review and reduce the amounts to be awarded for such scholarships and grants pro rata.

(b) THEC shall provide assistance to the general assembly and to TSAC by researching and analyzing data concerning the scholarship and grant programs created under this part, including, but not limited to, student success and scholarship retention. THEC shall report its findings annually to the education committee of the senate and the education committee of the house of representatives by October 1.

(c) Postsecondary educational institutions that enroll students receiving scholarships or grants under this part shall provide all information required by TSAC and THEC that is necessary for administering, reviewing, and evaluating such programs. TSAC and THEC may choose to collect data from higher education institutions or through the University of Tennessee system, board of regents or the Tennessee Independent Colleges and Universities Association.

782

TSAC and THEC shall maintain confidentiality of individual student records in accordance with the Family Educational Right to Privacy Act (20 U.S.C. § 1232g).

(d) THEC shall study and include in its report required under subsection (b) an analysis of the general assembly merit scholarship program and its success in promoting exceptional academic achievement in college. Specifically, THEC shall report the number of students in each class who retain general assembly merit scholarships throughout their college careers and the number of students who do not retain general assembly scholarships and the reasons therefore. THEC shall analyze whether the retention standards for general assembly scholarships should be increased to promote further exceptional academic achievement in college.

(e) [Deleted by 2016 amendment].

49-4-909. Eligibility for Tennessee middle college scholarship.

(a) To be eligible for a Tennessee middle college scholarship a student shall:

(1) Not be ineligible for the scholarship under § 49-4-904;

(2) Be classified as an in-state student under the rules of the board of regents on the date of enrollment in middle college and on the date of reenrollment in a subsequent academic year;

(3) Have obtained a minimum cumulative grade point average of 3.0 by the end of the student's sophomore year;

(4) Be admitted to, and enrolled in, an eligible public two-year postsecondary institution that is partnering with an LEA to offer middle college in the fall semester of the student's junior year in high school; and

(5) Make application for the scholarship as prescribed by TSAC.

(b)(1) To maintain eligibility for the Tennessee middle college scholarship, a student shall meet all nonacademic requirements of the program, maintain a cumulative grade point average of 3.0 at the end of each semester for all postsecondary courses attempted under the Tennessee middle college scholarship, and be enrolled full-time.

(2) If a student drops out of middle college, fails to maintain eligibility for the Tennessee middle college scholarship at the end of any semester, or fails to maintain full-time status, the student shall not be able to regain the scholarship.

(c) A student may receive a Tennessee middle college scholarship until the first of the following events:

(1) The student has earned an associate degree or completed high school;
or

(2) Two (2) years have passed from the date of the student's enrollment as a middle college student in an eligible public two-year postsecondary institution.

(d) Subject to the amounts appropriated by the general assembly and any provision of law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery, a Tennessee middle college scholarship awarded to a student enrolled in middle college shall be one thousand dollars (\$1,000) for full-time attendance for each semester.

(e)(1) A student who successfully completes middle college and receives both a high school diploma and an associate degree shall be eligible to receive a Tennessee HOPE scholarship at the time of transfer to an eligible four-year postsecondary institution in pursuit of a baccalaureate degree, if the student:

(A) Meets all academic and nonacademic requirements for the Tennessee HOPE scholarship;

(B) Meets the requirements of § 49-4-911(a)(1) or (a)(2);

(C) Transfers to the eligible four-year postsecondary institution no later than sixteen (16) months after graduation from high school; and

(D) Applies for the Tennessee HOPE scholarship.

(2) To continue to be eligible for a Tennessee HOPE scholarship at the end of subsequent semesters when eligibility is checked, the student shall meet the requirements of § 49-4-911.

(3) A student who received an associate degree through middle college shall be eligible for the Tennessee HOPE scholarship until the student reaches a terminating event under § 49-4-913. Semester hours attempted and full-time equivalent semesters enrolled in as a middle college student shall count toward the limits on semester hours attempted and full-time equivalent semesters under § 49-4-913. The five-year period in which a student is eligible for a Tennessee HOPE scholarship shall start at the time the student enrolls in the eligible public two-year postsecondary institution as a middle college student, but shall not include any time between the receipt of the associate degree and enrollment in an eligible four-year postsecondary institution.

(f)(1) A student who enrolls in middle college and receives a Tennessee middle college scholarship, but does not complete middle college and does not receive an associate degree shall be eligible for a Tennessee HOPE scholarship upon enrolling in an eligible postsecondary institution no later than sixteen (16) months after completion of high school, if the student:

(A) Is not ineligible for the scholarship under § 49-4-904;

(B) Meets all requirements of § 49-4-905(a); and

(C) Meets the requirements of § 49-4-907 or § 49-4-908.

(2) Semester hours attempted and full-time equivalent semesters enrolled in as a middle college student shall count toward the limits on semester hours attempted and full-time equivalent semesters under § 49-4-913. The five-year period in which a student is eligible for a Tennessee HOPE scholarship shall include any time in which the student was enrolled in middle college, but shall not include any time in which the student was attending high school after leaving middle college or any time between completion of high school and enrollment in an eligible postsecondary institution.

(g) A student who does not receive a Tennessee middle college scholarship in the fall semester of the junior year in high school shall not be eligible to receive a Tennessee middle college scholarship at any later time.

(h) No retroactive award of a Tennessee middle college scholarship shall be made under this section.

(i) A student receiving a Tennessee middle college scholarship shall not be eligible for a dual enrollment grant under § 49-4-930.

(j) The award of Tennessee middle college scholarships shall commence with the 2018-2019 academic year.

49-4-930. Dual enrollment grant for high school students. [Effective until July 1, 2020. See the version effective on July 1, 2020.]

(a) A high school student who is also enrolled in an eligible postsecondary institution shall be eligible for a dual enrollment grant if the student:

- (1) Is not ineligible for the grant under § 49-4-904;
- (2) Is a Tennessee resident and has been a Tennessee resident, as defined by regulations promulgated by the board of regents under § 49-8-104, for at least one (1) year immediately preceding the date of application for a grant or for the renewal of a grant;
- (3) Is admitted to an eligible postsecondary institution as a dual enrollment student; and
- (4) Makes application for the dual enrollment grant.

(b) An eligible student must submit an application for the dual enrollment grant each academic year. To be eligible for a dual enrollment grant for a semester beyond the first semester of receipt in an academic year, the student shall continue to meet all eligibility requirements for the grant and shall achieve a cumulative grade point average of 2.75 for all postsecondary courses attempted under a dual enrollment grant.

(c) A student receiving a dual enrollment grant may enroll for one (1) course per semester at an eligible postsecondary institution. Courses attempted as a dual enrollment student under this subsection (c) shall not count toward the limitation under § 49-4-913 on the receipt of a HOPE scholarship.

(d) If a student:

- (1) Is a junior or senior in high school;
- (2) Is receiving a dual enrollment grant; and
- (3)(A) Has qualified academically for a Tennessee HOPE scholarship by attaining the required composite ACT score or the concordant equivalent score on the SAT; or
(B) Has achieved an overall weighted high school grade point average of at least 3.0 for all high school work completed prior to the semester of enrollment as a dual enrollment student, if the student is enrolled in an eligible high school;

then, notwithstanding the provisions of subsection (c) to the contrary, the student may enroll in one (1) additional course per semester at an eligible postsecondary institution as a dual enrollment student. Financial assistance received for courses attempted under this subsection (d) shall reduce the amount of any subsequent award of the Tennessee HOPE scholarship on a dollar per dollar basis.

(e) If a dual enrollment student enrolls in an eligible public postsecondary institution after graduation from high school, then such institution shall not deny credit towards an associates or baccalaureate degree for any college course taken as a dual enrollment student if the student successfully completed the course, and, if the course was not taken at the institution in which the student enrolls after graduation from high school, the course qualifies for transfer credit.

(f)(1) It is the intent of the general assembly that:

- (A) Funding for Tennessee HOPE scholarships, Tennessee HOPE access grants, and Wilder-Naifeh technical skills grants take priority over funding for dual enrollment grants; and
- (B) The dual enrollment grant program be fully funded before any funds in the lottery for education account are transferred to the Tennessee

Promise scholarship endowment fund pursuant to § 49-4-708.

(2) Subject to the amounts appropriated by the general assembly and any law relating to a shortfall in funds available for postsecondary financial assistance from the net proceeds of the state lottery, TSAC shall determine the award for a credit hour taken under a dual enrollment grant. TSAC shall not award an amount for a credit hour taken under a dual enrollment grant that exceeds the cost per credit hour of courses taken at community colleges in the state university and community college system.

(g) Courses for which a dual enrollment grant is received may be taken at any time during the junior or senior year in high school.

49-5-101. Basic requirements.

(a) No person shall be employed as principal, teacher or supervisor of any public elementary or high school by any local school district, or receive any pay for such services out of the public school funds of the local school district until the person presents to the director of schools a valid license as prescribed in this part. It is unlawful for any board of education to issue any warrant or check to such persons for services as principal, teacher or supervisor until the person has presented for record a license valid for the term of employment.

(b) As used in this part, "employ," and all derivatives of "employ," mean to put to work in a position compensated from public funds and are not to be construed to preclude election by the local board of education of a teacher prior to the teacher's having received a license, in accordance with the rules and regulations of the state board of education.

(c) No person under eighteen (18) years of age shall receive a license to teach in the public schools; and no one who has less than eight (8) months of experience as a teacher or who is under eighteen (18) years of age shall receive pay out of the public school funds as the principal of any school having more than one (1) teacher.

(d) No person shall receive a license to teach unless the person has a good moral character and under no circumstances shall licenses be granted to persons addicted to the use of intoxicants or narcotics. All applicants for licenses shall satisfy the state board of education that they meet the requirements of this part.

(e) The state board of education shall not issue professional licenses upon the work done in any college or university, except from a list of standard teacher-training institutions, colleges and universities that shall be approved by the state board of education after inspection as may be provided by the board.

(f)(1) Licenses to teach shall be uniform for all the local school systems and shall be issued by the state board of education in accordance with the requirements set out in this part.

(2) Credits earned through correspondence work or class extension work from the University of Tennessee and other colleges, with approval by the state board of education to offer correspondence and extension credits, shall be accepted as credit for licensing of directors of schools, supervisors, high school principals and teachers and elementary school principals and teachers in the same manner and to the same extent as such credits are accepted towards degrees in the University of Tennessee and other approved Tennessee colleges. In computing credits for a license, one (1) quarter hour of credit earned through correspondence work or class extension work shall connote

786

a credit of one (1) week of residence.

(g) [Deleted by 2019 amendment.]

(h)(1) The state board of education, in consultation with the department of education, is directed to review current policies, rules and regulations pertaining to transitional licensure options and make recommendations relative to the following:

(A) The clarification of provisions applicable to transitional license education providers affiliated with Tennessee institutions of higher education and providers that are not affiliated with a Tennessee institution of higher education, such as out-of-state or online education-related organizations;

(B) The process by which providers or transitional licensure programs receive approval by the state, and specifically such process for those providers that have been approved for an existing partnership with an LEA; and

(C) Informing LEAs of the availability of transitional licensure options, including the feasibility of higher education institutions providing information relative to the requirements, cost and performance of transitional licensure programs.

(2) [Deleted by 2018 amendment.]

49-5-103. Award of additional professional development points for certain teachers.

Beginning with the 2019-2020 school year, the state board of education shall award a teacher five (5) additional professional development points if the teacher's overall evaluation demonstrates an overall performance effectiveness level of "above expectations" or "significantly above expectations" and the evaluation is based on the teacher's performance while employed at a school that is on the priority list or the focus list pursuant to § 49-1-602.

49-5-108. Jurisdiction of state board of education.

(a)(1) Complete jurisdiction over the issuance and administration of licenses for supervisors, principals and public school teachers for kindergarten through grade twelve (K-12), including teachers in preschools operated under the authority of chapter 6, part 1 of this title, shall be vested in the state board of education.

(2) Notwithstanding subdivision (a)(1), the state board of education shall not deny instructional leader licensure based solely on the applicant completing a leadership preparation program located outside of this state.

(b) The licenses shall be uniform for all the school systems in the state.

(c) The state board of education is authorized, empowered and directed to set up rules and regulations governing the issuance of licenses for supervisors, principals and public school teachers. These rules and regulations shall prescribe standards controlling the issuance and renewal of all licenses and permits; provided, that:

(1) If a license is issued, it shall not be to an applicant who has less than four (4) years of general or technical and professional training beyond the twelfth grade;

(2) No increase in the minimum requirements for licenses shall become effective until at least one (1) year after promulgation of the increase by the

state board of education;

(3) [Deleted by 2019 amendment.]

(4) Active or retired military personnel who seek to serve as junior reserve officers' training corps (JROTC) instructors shall be licensed to teach JROTC and military science in grades nine through twelve (9-12) based on documented military JROTC certification issued upon successful completion of all JROTC preparation requirements specific to the person's branch of military service. JROTC instructors so licensed shall not be licensed to teach courses other than JROTC and military science, and LEAs shall not employ persons licensed only as JROTC instructors to teach courses other than JROTC or military science. Such restrictions to licensure, however, shall not impinge the granting of state-approved equivalency credits received through a JROTC or military science course;

(5) A supervisor's, principal's or teacher's license shall not be nonrenewed or revoked by the department of education based on student growth data as represented by the Tennessee value-added system (TVAAS), developed pursuant to chapter 1, part 6 of this title, or some other comparable measure of student growth, if no such TVAAS data is available; and

(6) Notwithstanding any other law, a supervisor, principal, or public school teacher shall not be required to take an assessment to advance or renew a license if:

(A) At the time of application for an initial license, the supervisor, principal, or public school teacher possessed an active professional license in a state that has a reciprocal agreement with the state board of education pursuant to § 49-5-109;

(B) At the time of application for advancement or renewal of a license, the supervisor, principal, or public school teacher is employed to serve or teach courses in the individual's area of endorsement in a public school in this state; and

(C) The supervisor, principal, or public school teacher earned an overall performance effectiveness level of "above expectations" or "significantly above expectations" as provided in the evaluation guidelines adopted by the state board of education pursuant to § 49-1-302 in each of the first two (2) years immediately following the issuance of the individual's initial license.

(d)(1) The state board of education has the authority to promulgate rules and regulations prescribing minimum standards for licenses and certificates differing from the requirements prescribed in this chapter.

(2)(A) The state board of education shall establish guidelines, through the promulgation of rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to suspend, deny or revoke the license or certificate of a teacher who is delinquent or in default on a repayment or service obligation under a guaranteed student loan or if such teacher has failed to enter into a payment plan or comply with a payment plan or service obligation previously approved by TSAC or a guarantee agency. This subdivision (d)(2) shall apply to any federal family education loan program, the federal Higher Education Act of 1965 (20 U.S.C. § 1001 et seq.), a student loan guaranteed or administered by TSAC, or any other state or federal educational loan or service-conditional scholarship program.

(B) Notwithstanding subdivision (d)(2)(A), the state board of education may elect not to suspend, deny, or revoke the license or certificate of a

teacher if the default or delinquency is the result of a medical hardship that prevented the person from working in the person's licensed field and the medical hardship significantly contributed to the default or delinquency.

(e) The department of education shall encourage institutions with authorized teacher training programs to evaluate all the teacher training programs to assure that persons seeking licensure in this state will have had appropriate instruction in the teaching of reading.

(f)(1) The state board of education, with the assistance of the department of education and the Tennessee higher education commission, shall develop a report card or assessment on the effectiveness of teacher training programs. The state board of education shall annually evaluate performance of each institution of higher education providing an approved program of teacher training and other state board approved teacher training programs. The assessment shall focus on the performance of each institution's graduates and shall include, but not be limited to, the following areas:

(A) Placement and retention rates;

(B) Performance on PRAXIS examinations or other tests used to identify teacher preparedness; and

(C) Teacher effect data created pursuant to § 49-1-606.

(2) Each teacher training institution and each LEA shall report all data as requested by the state board of education that the board needs to make the evaluation. The report card or assessment shall be issued no later than February 15 of each year.

49-5-112. Licensure to teach in grades nine through twelve for person who has taught at eligible postsecondary institution.

(a) Notwithstanding any law to the contrary, the department shall issue a license to teach in grades nine through twelve (9-12) to any person who has taught at an eligible postsecondary institution as defined in § 49-4-902 and who meets the qualifications listed in this section. The license shall bear an endorsement to teach only in the subject area in which the person taught at the eligible postsecondary institution.

(b) Any applicant seeking teacher licensure pursuant to this section shall:

(1)(A) Have been a full-time college professor or instructor for at least two

(2) of the last five (5) years at an eligible postsecondary institution that is accredited by a regional accrediting association, as defined by § 49-4-902;

or

(B) Have been a part-time college professor or instructor, teaching at least one (1) course per semester, for at least three (3) of the last five (5) years at an eligible postsecondary institution that is accredited by a regional accrediting association, as defined by § 49-4-902;

(2) Submit for review by the department or a partnering institution of higher education at least three (3) years of documented teaching evaluations that rate the applicant for licensure as proficient or better in the subject area in which the applicant is seeking licensure. The teaching evaluations required by this subdivision (b)(2) shall have been administered by the institution at which the applicant taught. The department is authorized to promulgate rules and regulations to define proficiency in evaluations;

(3) [Deleted by 2019 amendment.]

- (4) [Deleted by 2019 amendment.]
- (5) Successfully complete all exams required for licensure for the subject area in which the applicant is seeking licensure.

49-5-401. Employment and assignment generally.

(a) All educators and other school personnel to be employed for the following school year shall be assigned to the several schools by June 15 next preceding the school year for which those persons are employed.

(b) If a sufficient number of educators and other personnel are not available for employment by May 15, the director of schools shall employ and assign to the several schools such educators and other personnel as are necessary to meet the needs and programs authorized by the board of education.

(c) [Deleted by 2019 amendment.]

49-5-402. Salary ratings.

(a) After the election of teachers, the director of schools shall establish the salary rating of each person employed as teacher or principal-teacher, and also the director of schools and other school personnel employed on a system-wide basis in the public schools, using for this purpose the established training and experience of the school personnel and the respective state salary schedule for the school year, as prescribed by the commissioner of education and approved by the state board of education.

(b) The salary rating and other information as called for on forms prescribed by the commissioner shall be filed with the commissioner on or before February 1 of the school year for which the personnel are elected.

(c) [Deleted by 2019 amendment.]

(d) [Deleted by 2019 amendment.]

(e) Notwithstanding any provision of this section to the contrary, any principal-teacher, teacher, director of schools, or other school personnel employed on a system-wide basis who completes additional academic training after the beginning of a school year but prior to January 1 of that school year, that would qualify the employee for a higher salary rating, shall be eligible to have the employee's salary rating redetermined as of January 1 of the school year. To receive the adjustment in salary rating, the employee shall give notice in writing of the employee's intention to complete academic training that may qualify the employee for a higher salary rating after the beginning of the school year immediately subsequent to the date of the notice and prior to January 1 of such school year. The written notice shall be given to the director of schools and to the chair of the local board of education prior to submission of the LEA's budget to the local legislative body pursuant to § 49-2-203(a)(10). After completing the academic training, the employee shall provide, by February 1 of the school year, all documentation, as required by the LEA and the commissioner, necessary to establish the completion of the training. The increased salary rating and other information, as called for on forms prescribed by the commissioner, shall be filed with the commissioner by February 15 of the school year.

(f) Military personnel who have served as junior reserve officers' training corps (JROTC) instructors in accordance with § 49-5-108(c)(4) for not less than two (2) years and who currently teach in subject areas other than JROTC or military science, for which they are properly licensed, shall be credited with

790

their years of experience in teaching JROTC or military science for the purpose of determining salary ratings.

49-5-403. Teachers — Licenses required.

(a) No person shall be employed to teach in any public elementary or high school or receive pay for teaching out of the public funds of any school system until the person has received a license from the commissioner or state board of education.

(b) As used in parts 2, 4 and 7 of this chapter, “employ,” and all derivatives of “employ,” means to put to work in a position compensated from public funds, and shall not be construed to preclude election by the local board of education of a teacher prior to that teacher’s having received a license, in accordance with the rules and regulations of the state board of education.

(c) This section does not apply to a student teacher. As used in this section, “student teacher” means a student enrolled in an institution of higher learning approved by the state board of education for teacher training, who is jointly assigned by the institution of higher learning and the local board of education to perform practice teaching under the direction of a regularly employed and licensed teacher. A student teacher, while serving a nonsalaried internship under the supervision of a licensed teacher, shall be accorded the same protection of the laws as that accorded a licensed teacher, and shall, while acting as a student teacher, comply with all rules and regulations of the state and applicable local board of education and observe all duties of teachers as set forth in § 49-5-201. A student teacher who has been jointly assigned to a before-and-after school care program and who performs in a nonsalaried internship under the direction of a regularly employed teacher shall, while serving in this position, be accorded the same protection of the laws as is accorded a licensed teacher, specifically including protections under title 29, chapter 20.

(d) Since preschool and early childhood special education require very specialized curriculum and practicum experience, the state board of education shall establish licensing requirements and procedures for preschool and early childhood special education teachers. Such licensing requirements and procedures shall be submitted to the education committee of the senate and the education committee of the house of representatives for review prior to their implementation.

49-5-408. Teachers — Contracts.

All teachers shall make a written contract with the director of schools or board of education at a fixed salary per month before entering upon the teachers’ duties.

49-5-410. Teachers — Moonlighting.

(a) A teacher employed full time by any institution of public education, including higher education, may be employed and paid by the same or another institution for additional part-time work outside the teacher’s regular hours, not to exceed fifteen (15) clock hours beyond the teacher’s regular employment per week and not to exceed four hundred (400) clock hours out of any

nine-month period.

(b) If the additional part-time work is or includes teaching in an institution of higher education, the teacher shall be limited to teaching no more than two (2) courses per quarter or semester.

(c) The employment must be approved by the governing board of each institution of public education.

49-5-411. Teachers — Resignations — Breach of contract.

(a) The conditions under which it is permissible to break a contract with a local board of education are as follows:

(1) The incapacity on the part of the teacher to perform the contract as evidenced by the certified statement of a physician approved by the local board of education;

(2) The drafting of a teacher into military service by a selective service board; and

(3) The release, by written mutual consent, by the local board of education of the teacher from the contract that the teacher has entered into with the local board of education.

(b) A teacher shall give the director of schools written notice of resignation at least thirty (30) days in advance of the effective date of the resignation. A teacher who breaks a contract with a local board of education without a justifiable reason as listed in this section shall be subject to the following penalty:

(1) The local board of education, upon a motion recorded in its minutes, may file a complaint with the state board of education and request a suspension of the teacher's license;

(2) The request shall be supported by facts documenting the charge that the teacher broke the contract contrary to this section;

(3) The teacher shall receive a copy of the charges and facts at the same time they are filed with the state board of education;

(4) If the state board of education finds that the contract was broken, then the commissioner shall suspend the teacher's license for no less than thirty (30) and no more than three hundred sixty-five (365) days;

(5) The suspension of a license according to this section shall occur only after the state board of education has provided the teacher an opportunity for defense, in person or by counsel, against the charges during a full and complete hearing within thirty (30) days following the filing of the complaint; and

(6) A license that has been suspended because of breach of contract shall have recorded on it the date the suspension was in effect and the cause for the suspension.

49-5-418. Grant of release-time to professional employees to hold office as a representative of a local professional employees' organization.

(a) An LEA may grant release-time to a professional employee to hold office as a representative of a local professional employees' organization as defined in § 49-5-602. Release-time may be granted if the local board approves the request or if release-time is agreed to as part of a memorandum of understanding under the Professional Educators Collaborative Conferencing Act of 2011,

compiled in part 6 of this chapter. Release-time may be granted for a portion of the year or for an entire year. If the release is granted for an entire year, the release-time shall be granted from a date certain to a date certain.

(b) If an LEA grants release-time, the professional employees' organization shall:

(1) Reimburse the LEA the full per diem salary of the professional employees' organization representative for each day of service the employee is released from duty, or the LEA shall deduct the day from the employee's accumulated personal leave, if the release is granted for less than the entire school year; or

(2) Reimburse the LEA the full cost of the employee's salary and benefits, if the release is granted for an entire school year.

(c) If release-time is granted to a professional employee for more than ninety (90) days, the LEA shall maintain the employee's position without advancement on the salary scale.

(d) An LEA may allow a teacher representative of a professional employees' organization whose presence has been requested by another teacher participating in a grievance procedural meeting or a disciplinary or employment rights meeting to attend the meeting. The teacher representative's attendance shall be considered as engaging in school duties.

(e) This section does not apply if an agreement is made between a professional employees' organization and the LEA granting release-time of less than one (1) full day per week to perform organizational duties.

(f) [Deleted by 2019 amendment.]

49-5-710. Sick leave — Accumulation and use.

(a)(1) The time allowed for sick leave within the meaning of this section for any teacher shall be one (1) day for each month employed plus any personal and professional leave transferred to sick leave. Sick leave shall be cumulative for all earned or transferred days not used.

(2) Any teacher who goes on maternity or paternity leave may use sick leave and annual leave, as described by § 8-50-801, for maternity or paternity leave for a period not to exceed the teacher's accumulated sick leave and annual leave balance, or twelve (12) weeks, whichever is less. To be eligible to use sick leave as maternity or paternity leave, the teacher must submit a written request that includes a statement from the attending physician indicating the expected date of confinement, no later than the end of the fifth month of pregnancy. Upon verification by a written statement from an adoption agency or other entity handling an adoption, a teacher may be allowed to use up to thirty (30) days of accumulated sick leave for the adoption of a child. If both adoptive parents are teachers, only one (1) parent is entitled to use leave under this subsection (a).

(3) When first employed in a system, a teacher shall be allowed an initial allotment of up to five (5) days of sick leave, but not exceeding the number the teacher could earn during the school year in which the teacher is first employed. If a teacher uses a part or all of this initial allotment, these days shall be charged to sick leave later accumulated by the same teacher.

(4) At the termination of the employment of any teacher, all unused sick leave accumulated by the teacher shall be terminated.

(5) However, a local board of education shall grant to any teacher, upon the teacher's employment or reemployment, the accumulated sick leave that

the teacher lost by previous termination of employment in a public school system of this state; except that a teacher terminated for cause, as defined in § 49-5-501, shall not be granted, upon further employment, the sick leave days lost; and except that a teacher who breaks a contract with the board of education without a justifiable reason and without giving at least thirty (30) days' advance notice shall be granted previously accumulated, unused leave only if the board whose employ the teacher left permits the teacher to resign in good standing under the terms of § 49-5-508. This grant of previously accumulated, unused sick leave days shall be made only upon application of the teacher and only upon written verification notarized by the director of schools of the system in which the accumulated sick leave was held. The grant of previously accumulated, unused sick leave days provided for under this subdivision (a)(5) shall be available to any teacher and state employee.

(6) Every local board of education shall keep a record of the accumulated sick leave for each eligible teacher in its employ and shall provide a verified copy to the teacher or other board of education for purposes of implementing this section.

(7) The local board of education may require that a physician's certificate be furnished by the teacher in all cases deemed proper by the local board.

(8) In case of doubt, the local board of education shall have final authority as to who is entitled to leave under this section and the time for which the leave may be allowed.

(9) A teacher in need of sick leave shall be allowed to use unearned sick leave up to the amount of days that the teacher may accumulate during the remainder of the school year in which the teacher is employed. Such advance use of sick leave shall be charged to sick leave accumulated in the same school year. Upon termination of the employment of the teacher before the days are earned or at the end of the school year, there shall be deducted from the final salary of the teacher an amount based on the teacher's daily rate of pay sufficient to cover the excess sick leave days used by the teacher, and if the final salary is insufficient for this purpose, the teacher shall be liable for reimbursement of any amount in excess of the teacher's final salary.

(b) Any person employed by any agency, office, department or institution of the state or any state college or university, and who participates in the sick leave program provided in title 8, chapter 50, part 8, who leaves such employment and within two (2) years becomes a teacher employed by any local board of education, shall be allowed to convert all accumulated state sick leave into sick leave under this section. Any person may waive such conversion by notice to the authority responsible for the person's appointment. The previous employer shall certify to the new employer that the sick leave for which credit is being sought actually is accrued and due and is substantiated by records of the agency compiled during the course of such employment and not from records compiled solely for purposes of establishing leave credit. The conversion of sick leave under this subsection (b) shall be available to any employee who has transferred employment from any state agency named in this subsection (b) to any local school system.

49-5-5605. Proficiency tests.

(a) All students desiring a license to teach must pass both a test that measures professional knowledge and a standardized or criterion-referenced

test for each desired area of endorsement. These tests shall be developed or acquired by the department of education, validated and administered by the department at each institution or made available through the regular administration offered by a national testing organization. These tests shall be secure. Before the tests are placed in use, the board shall submit the tests to the education committee of the senate and the education committee of the house of representatives for review and comment.

(b) The department shall allow an extra year for an applicant to be administered the state teachers certification test and shall make special accommodation in administration of the tests provided for by this section under the following circumstances:

- (1) The applicant has been employed by an LEA for one (1) year or more;
- (2) The applicant has favorable recommendations from the local board and local director of schools;
- (3) The applicant has a handicapping condition, including dyslexia, that adversely affects the applicant's ability to successfully complete the test;
- (4) The applicant has previously been unsuccessful in achieving a passing score on the test; and
- (5) In previous testing, the applicant has demonstrated a probable likelihood of success in passing the test, given additional time, reading assistance, oral administration of or response to test questions or other reasonable measures that would not compromise validity of the test.

49-5-5609. Report regarding certification by National Board for Professional Teacher Standards.

The commissioner of education shall report to the state board of education the number of Tennessee candidates for certification by the National Board for Professional Teacher Standards and the number attaining the certification.

49-6-101. Preschools generally — Special services.

(a) Any board of education operating public elementary or secondary systems of education under the laws of this state may provide for, establish and maintain schools for children under six (6) years of age under such rules and regulations as may be prescribed by the state board of education.

(b) The school boards shall be authorized to receive and accept any federal funds or state funds that hereafter may be specifically appropriated for preschool purposes, or gifts, donations or grants that may be received for such purposes, and to expend the funds in conformity with the provisions that may be set forth in the appropriations, grants, gifts or donations.

(c)(1) Schools for preschool children organized as public schools or as public school classes under parts 1 and 2 of this chapter shall be maintained and supported from local taxes or from such local tax funds supplemented by any federal funds or state funds that hereafter may be appropriated specifically for preschool purposes, or from such gifts, donations or grants as may be received for preschool purposes.

(2) State funds appropriated for grades kindergarten through twelve (K-12) and any local funds that are required for participation in the basic education program shall not be used for preschool purposes.

(3) In the event that an appropriation is made by the state for preschool purposes, the average daily attendance of the preschool age pupils shall be reported to the department of education in such manner and on such forms

as shall be prescribed by the commissioner.

(d) Except as otherwise provided in this part, the state board of education, through the commissioner, shall exercise general control over all schools or classes operated under parts 1 and 2 of this chapter, and the school board, having immediate control of such schools or classes, shall at all times have complete jurisdiction and control over such schools, including the employment of teachers, attendants and any other employees, and shall have complete control, subject to the supervision of the commissioner, of the expenditure of such funds in connection with the establishment and maintenance of such schools.

(e) This part and part 2 of this chapter shall not apply to any preschool age units now being operated by any incorporated city for the benefit of children of working mothers, without the approval of the city officials.

(f)(1) Through a system of competitive grants and technical assistance provided as funding is available, the department of education may establish, administer, and monitor programs of community-based early childhood education and pre-kindergarten programs to serve at least five thousand (5,000) children; provided, that the pilot pre-kindergarten programs established pursuant to this section shall be funded at the same level as the funding for pre-kindergarten programs implemented pursuant to the Voluntary Pre-K for Tennessee Act of 2005, compiled in this part. Such programs shall be designed to address comprehensively the educational needs, including cognitive, physical, social and emotional, of children who are not otherwise eligible for similar programs or who do not have access to such programs. The programs shall serve:

(A) Dependent children, as defined by § 49-7-102(c), who are four (4) years of age whose parent was killed, died as a direct result of injuries received or has been officially reported as being either a prisoner of war or missing in action while serving honorably as a member of the United States armed forces during a qualifying period of armed conflict as defined by § 49-7-102(c), or was formerly a prisoner of war or missing in action under such circumstances, who can present the following:

(i) Official certification from the United States government that the parent veteran was killed or died as a direct result of injuries received while serving honorably as a member of the United States armed forces during a qualifying period of armed conflict; or

(ii) Official certification from the United States government that the parent veteran has been officially reported as being a prisoner of war or missing in action while serving honorably as a member of the United States armed forces during a qualifying period of armed conflict or was formerly a prisoner of war or missing in action under such circumstances as appropriate within one hundred and eighty (180) days prior to applying for services under this subdivision (f)(1);

(B) Children who are four (4) years of age on or before August 15 and from families with incomes that meet the eligibility requirements for free and reduced lunch as determined pursuant to 42 U.S.C. § 1771; and

(C) Subject to availability of space and resources:

(i) Children who are three (3) and four (4) years of age and who are screened and identified as educationally at-risk, determined pursuant to 20 U.S.C. § 1400 et seq.;

(ii) Children who are three (3) and four (4) years of age who have been in the Tennessee Early Intervention Program (TEIS) or Even Start

program; and

(iii) Children three (3) years of age and from families with incomes that meet the eligibility requirements for free and reduced lunch as determined pursuant to 42 U.S.C. § 1771.

(2) Enrollment in the program shall be voluntary.

(3) LEAs may contract and enter into collaborative agreements for operation of these programs with nonschool system entities in the geographical area served by the LEA, including, but not limited to, nonprofit and for-profit childcare providers and Head Start programs. LEAs shall not contract or collaborate with any childcare provider licensed by the department of human services, unless that provider has attained the highest designation under the rated licensing system administered by the department of human services pursuant to title 71, chapter 3, part 5.

(4) The distribution of early childhood education and pre-kindergarten programs shall be developed in phases based on availability of funding and resources. Selection of early childhood education and pre-kindergarten program sites shall take into consideration the areas of greatest need, which may be determined by, but not limited to:

(A) School service areas with high percentages of children from families with incomes that meet the eligibility requirements for free and reduced lunch as determined pursuant to 42 U.S.C. § 1771;

(B) Access to early childhood education and pre-kindergarten programs within the county; or

(C) Service areas of schools that have been determined to be on notice or probation, as defined by § 49-1-602.

(5) All early childhood education and pre-kindergarten programs established under this subsection (f) shall be developed through a collaborative effort of the departments of education, health, mental health and substance abuse services, intellectual and developmental disabilities, children's services and human services, and shall build upon resources and services within the community. Efforts should be made by the interdepartmental group to inform eligible families about enrollment in the early childhood education and pre-kindergarten programs, to address the health and social needs of children and to assist working families to meet extended day child care needs.

(6) Effective with fiscal year 2005-2006, the LEA may include in its application a request for funding pursuant to the requirements of §§ 49-6-103 — 49-6-110, for any existing pilot pre-kindergarten program established under this subsection (f); provided, however, that no state funds received for pre-kindergarten programs pursuant to §§ 49-6-103 — 49-6-110 shall be used to supplant any other state or local funds for pre-kindergarten programs.

(7) All provisions of this subsection (f) are subject to appropriation of funds for that purpose. No provision of this subsection (f) shall be considered an entitlement to any service or program authorized by this subsection (f) unless funds are appropriated for such purpose.

49-6-105. Application for funding and approval — Collaborative agreements.

(a) LEAs may apply to the department of education for funding and approval of one (1) or more pre-kindergarten programs. LEAs may contract

and enter into collaborative agreements for operation of these programs with nonschool system entities in the geographical area served by the LEA, including, but not limited to, nonprofit and for-profit child care providers and Head Start programs. LEAs shall not contract or collaborate with any child care provider licensed by the department of human services, unless that provider has attained the highest designation under the rated licensing system administered by the department of human services, pursuant to title 71, chapter 3, part 5.

(b) As part of the application process, the LEA shall include a statement that it has given consideration to how to serve all children four (4) years of age within the geographical area served by the LEA, in the event programs are later authorized for all children, regardless of at risk status. The long range plan shall include the proposed sources of local matching funds required under §§ 49-6-103 — 49-6-110. Where applicable, the LEA is encouraged to include a resolution of support from the local governing body indicating intent to appropriate the required local matching funds. Applications that target establishing programs for at-risk children not served by an existing program shall be given preference in the application process. Documentation of local financial support shall also be considered as a factor in the application process. LEAs are encouraged to collaborate with nonschool system entities where such collaboration provides an efficient means for expansion of pre-kindergarten classrooms authorized under §§ 49-6-103 — 49-6-110.

(c) The commissioner of education shall establish the system for submitting applications and, subject to available funding, programs shall be approved on a competitive basis.

(d) An LEA shall include as part of its application:

(1) A plan for ensuring coordination between voluntary pre-kindergarten classrooms and elementary schools within the LEA, with the goal of ensuring that elementary grade instruction builds upon pre-kindergarten classroom experiences;

(2) A plan for engaging parents and families of voluntary pre-kindergarten students throughout the school year; and

(3) A plan for delivering relevant and meaningful professional development to voluntary pre-kindergarten teachers, specific to ensuring a high quality pre-kindergarten experience.

(e)(1) LEAs that receive pre-kindergarten program approval under §§ 49-6-103 — 49-6-110 shall utilize the pre-k/kindergarten growth portfolio model approved by the state board of education, or a comparable alternative measure of student growth approved by the state board of education and adopted by the LEA, in the evaluation of pre-kindergarten and kindergarten teachers pursuant to § 49-1-302.

(2) **[Effective until January 1, 2020.]** For the 2018-2019 school year, employment termination decisions or adverse compensation decisions for pre-kindergarten or kindergarten teachers shall not be based solely on data generated by the growth portfolio model. This subdivision (e)(2) is repealed on January 1, 2020.

(f) Each LEA shall notify all teachers evaluated using a growth portfolio model of training and professional development opportunities available on growth portfolio models.

(g) Prior to the 2018-2019 school year, the department of education shall study the pre-k/kindergarten growth portfolio model, including the portfolio

798

rubric, the method for the collection and submission of student work artifacts, and scoring. The study shall include feedback from pre-kindergarten and kindergarten teachers, as well as other teachers using other growth portfolio models.

49-6-201. Minimum Kindergarten Program Law.

(a) This section shall be known and may be cited as the “Minimum Kindergarten Program Law.”

(b) The minimum standards for kindergarten programs in the public school system shall be as follows:

(1) The kindergarten program shall offer only the conventional five-day week and shall coincide as nearly as practical with the school term of the local school system;

(2) The length of the kindergarten day shall not be less than four (4) hours; however, if one (1) individual teaches kindergarten more than one (1) session per day, the total number of students shall not exceed the number otherwise permitted by § 49-1-104 for one (1) kindergarten class;

(3) Children entering kindergarten must be five (5) years of age on or before August 15 each school year;

(4) Teachers of kindergarten shall hold a valid Tennessee license in accordance with the rules and regulations of the state board of education; and

(5) The employment of adult aides or teacher’s aides for kindergarten is within the discretion of the local board of education.

(6) [Deleted by 2019 amendment.]

(7) [Deleted by 2019 amendment.]

(8) [Deleted by 2019 amendment.]

(c) Each LEA operating elementary schools under the laws of this state shall establish and maintain kindergarten programs in accordance with subsection (b) and rules and regulations promulgated by the state board of education.

(d) No child shall be eligible to enter first grade after July 1, 1993, without having attended an approved kindergarten program; provided, that a child meeting the requirements of the state board of education for transfer or admission, as determined by the commissioner, may be admitted by an LEA, notwithstanding any other provision or act to the contrary.

49-6-302. Attendance and length of term.

(a) There shall be established and maintained in each local school district as many elementary schools as necessary for the instruction of all the children in the school district. This shall not be construed as to invalidate §§ 49-2-501 — 49-2-503 or § 49-2-1001.

(b) It is the duty of the respective board of education to run all schools of the local school district as nearly as practicable the same length of time.

(c) A school shall not be established with fewer than ten (10) students in average daily attendance.

(d) Local school district boards of education shall designate the schools that pupils shall attend.

(e) The board of education shall have due regard to increasing the length of the school terms for the benefit of the school district by limiting the number of

schools and by consolidation whenever practicable.

(f) Any county board of education may admit to the elementary schools pupils resident in another county, as provided in § 49-6-3104.

49-6-308. Pilot program to improve parent-teacher engagement.

(a) The department of education shall establish in no less than two (2) public schools a three-year pilot program to improve parent-teacher engagement in any grade from kindergarten through grade two (K-2). Public schools interested in participating in the program shall apply with the department. The department shall strive to select public schools that satisfy the following criteria:

- (1) One (1) school from each grand division of the state;
- (2) At least one (1) urban, one (1) rural, and one (1) suburban school;
- (3) At least one (1) school that primarily serves a minority population; and
- (4) At least one (1) school in which eighty percent (80%) or more of the school's student population is eligible for free or reduced price lunch.

(b) The program shall begin with the 2018-2019 school year. Each school selected by the department to participate in the program shall be trained using a best practices model in the summer before any school selected to participate in the program is scheduled to begin classes for the 2018-2019 school year. The department shall organize a meeting with administrators from each of the schools selected to participate in the program, at which time the schools shall agree on the criteria to be used for the program from the chosen best practices model.

(c) Teachers participating in the program shall not be required to use the teacher's individual planning time or duty-free lunch or planning periods provided by § 49-1-302(e) for any duties or activities associated with the program.

(d) The department is authorized and empowered to contract with one (1) or more entities to provide parent-teacher engagement training to the teachers and principals of each school selected by the department to participate in the program.

(e) Throughout the program, the department shall collect and analyze:

(1) The number and percentage of parents who participated in the program and how many steps of the best practices model criteria they completed;

(2) The number and percentage of students meeting any academic goals established by the student, parent, and teacher as part of an initial parent-teacher conference or meeting;

(3) The academic performance goals met by students in any grade from kindergarten through grade two (K-2) whose parents and teachers participated in the program compared with the academic performance goals met by students in any grade from kindergarten through grade two (K-2) whose parents and teachers did not participate in the program;

(4) Data collected from a parent survey designed to gauge parent satisfaction with the program and to obtain suggestions from parents for ways to improve the program or to improve parent-teacher engagement in any grade from kindergarten through grade two (K-2); and

(5) Data collected from a teacher and principal survey designed to gauge teacher and principal satisfaction with the program and to obtain sugges-

800

tions from teachers and principals for ways to improve the program or to improve parent-teacher engagement in any grade from kindergarten through grade two (K-2).

(f) The department shall submit an annual report on the outcomes of the pilot program to the education committee of the senate and to the education committee of the house of representatives no later than July 31, 2019, for the first year of the pilot program, and no later than July 31 of each remaining year.

49-6-403. Attendance and length of term.

(a) There shall be maintained in each county of the state one (1) senior high school, which shall give at least one (1) full course of study approved by the state board of education. Local boards of education may establish additional high schools.

(b)(1) No junior high school shall be established and maintained with fewer than one hundred (100) pupils in average daily attendance.

(2)(A) No senior high school shall be established and maintained with fewer than three hundred (300) pupils in average daily attendance.

(B) Any senior high school in a state of transition may be initially established with fewer than three hundred (300) pupils in average daily attendance; provided, that as soon as the period of transition has been completed, the senior high school shall not have fewer than three hundred (300) pupils in average daily attendance.

(C) Nothing in this part shall prohibit the consolidation of any two (2) or more high schools now established into one (1) high school, even though the combined average daily attendance of the pupils in the consolidated high school is less than that required in this part.

(D) Nothing in this part shall be construed as abolishing any high school now established.

(E) Local boards of education may, in unusual circumstances, establish and maintain high schools with fewer pupils in average daily attendance than is prescribed in this section; provided, that prior approval is granted by the commissioner of education and the state board of education upon request of the respective local board of education.

(c) Local boards of education shall designate the schools that the pupils shall attend.

(d) Any high school operated by a local board of education, sharing in state and local school funds, shall be open without tuition to all resident students eligible to attend under policies of the local board of education.

(e) High school pupils residing in one county may be admitted to the high schools of another county, as provided by § 49-6-3104.

(f) Every local board of education shall collect tuition from pupils who are not living in Tennessee, at the same rate as the average cost per pupil in the system attended; however, pursuant to board policy, a child of a teacher residing outside the state may attend a school within the school district where the nonresident teacher is employed at no tuition charge. This tuition shall be paid to the bonded fiscal agent of the respective school system to be placed to the credit of the respective school fund. These pupils shall not be counted in computing the average daily attendance for purposes of receiving state school funds.

(g) [Deleted by 2019 amendment.]

(h) No high school shall be approved or its graduates given diplomas or statements of credits by the commissioner, or the average daily attendance of its students be counted in the distribution of the state and county high school funds, that does not meet the provisions of this part as to number and qualifications of teachers, number of students, school term, course of study and such other conditions as may be prescribed by the state board of education under this part.

49-6-407. Uniform grading system.

(a) Each LEA shall adopt and use the uniform grading system developed by the state board of education for students enrolled in grades nine through twelve (9-12). Students' grades shall be reported for the purposes of application for postsecondary financial assistance administered by the Tennessee student assistance corporation using the uniform grading system. Beginning with the 2019-2020 school year, the state board of education shall not modify the uniform grading system more than once every two (2) years.

(b) The state board of education shall develop a uniform grading system for students enrolled in grades kindergarten through eight (K-8) that LEAs may adopt and implement. Beginning with the 2019-2020 school year, the state board of education shall not modify the uniform grading system more than once every two (2) years.

(c) [Deleted by 2019 amendment.]

49-6-408. Administration of United States civics test.

(a) Beginning January 1, 2017, except as provided in subsection (c), a student, during the student's high school career, shall be given a United States civics test composed of questions from the one hundred (100) questions that are set forth within the civics test administered by the United States citizenship and immigration services to persons seeking to become naturalized citizens.

(b) An LEA shall prepare a test for its students composed of at least fifty (50) questions from those questions described in subsection (a). The test must be composed of at least twenty-nine (29) questions on American government, at least sixteen (16) questions on American history, and at least seven (7) questions on integrated civics. The LEA may prepare multiple versions of the test for use in different schools and at different times.

(c) A public high school may provide each student with the opportunity to take the test as many times as necessary for the student to pass the test.

(d) A student must correctly answer at least seventy percent (70%) of the questions to receive a passing score on the test.

(e) The department shall recognize a school on the department's website as a United States civics all-star school for any school year in which all of the school's seniors receiving a regular diploma make a passing grade of eighty-five percent (85%) or more on the United States civics test required under subsection (a).

(f) Notwithstanding § 49-6-6001(a), a student must take and pass the civics test required by this section in order to meet the social studies course credit requirements to earn a full diploma upon graduation from high school. A passing score on the civics test must be noted on a student's transcript.

49-6-412. Interest or career inventories — Career aptitude assessment.

(a) An LEA shall make an interest inventory such as the Kuder assessment, Myers-Briggs Type Indicator® personality inventory, the ASVAB, the College Board Career Finder, or other interest or career inventory available to public middle schoolers or ninth graders to assist students in determining the students' interests and in making career decisions.

(b)(1) In order to help inform a student's high school plan of study, each LEA shall administer a career aptitude assessment to students in grade seven (7) or grade eight (8).

(2) A career aptitude assessment is a tool used to help a student understand how a variety of skills and attributes impact the student's potential success and satisfaction with different career options and work environments. The department of education shall identify career aptitude assessments that LEAs may administer for purposes of this subsection (b).

49-6-414. Early postsecondary credit courses — Notification of early college and career experiences.

(a) Beginning with the 2018-2019 school year, every LEA shall make available to students enrolled in its high schools opportunities to take at least four (4) early postsecondary opportunities, as defined by the department of education. These opportunities may be provided through traditional classroom instruction, online or virtual instruction, blended learning, or other educationally appropriate methods.

(b) LEAs are encouraged to partner with other LEAs or institutions of higher education to provide early postsecondary credit courses.

(c) Each LEA shall:

(1) Notify students and parents of students enrolled in grades nine through twelve (9-12) of all early college and career experiences offered by the LEA for the upcoming school year;

(2) Provide the notification required in subdivision (c)(1) by January 1 or at least one (1) week before students enrolled in grades nine through twelve (9-12) register for classes for the upcoming school year, whichever is earlier. The LEA shall provide the notification electronically or by mail; and

(3) Provide a list of all early college and career experiences offered by the LEA for the upcoming school year on the LEA's website.

(d) Each LEA is encouraged to advise students and parents of students enrolled in grades nine through twelve (9-12) of the benefits of participating in early college and career experiences.

(e) As used in this section:

(1) "Early college and career experiences" include, but are not limited to, early postsecondary opportunities, as defined by the department of education, work-based learning opportunities, apprenticeships, dual credit courses, dual enrollment courses, and courses and examinations for which a student may earn college credit; and

(2) "Parent" means the parent, guardian, or legal custodian who is required under § 49-6-3001 to enroll the child in school.

49-6-417. Provision of feminine hygiene products for student use.

(a) As used in this section:

(1) "Eligible school" means a public high school that is eligible to participate in the community eligibility provision under the national school lunch program pursuant to 42 U.S.C. § 1759a; and

(2) "Feminine hygiene product":

(A) Means any product to be used by women with respect to menstruation or other genital-tract secretions; and

(B) Includes tampons and sanitary napkins.

(b) Each LEA is authorized to provide feminine hygiene products, at no charge, in all women's and girl's bathrooms and locker rooms in an eligible school building where instruction is provided, excluding any bathrooms and locker rooms specifically designated for teacher or staff use. The feminine hygiene products are for student use only.

49-6-705. Pilot after school programs.

(a) As used in this section, unless the context otherwise requires:

(1) "ACT" means the ACT assessment administered by ACT;

(2) "EXPLORE" means the EXPLORE assessment for students in the eighth and ninth grades administered by the ACT;

(3) "PLAN" means the PLAN assessment for students in the tenth grade administered by the ACT;

(4) "PSAT/NMSQT" means the Preliminary SAT/National Merit Scholarship Qualifying Test administered by the College Board and National Merit Scholarship Corporation; and

(5) "SAT" means the Scholastic Aptitude Test administered by the College Board.

(b)(1) The department of education shall establish, administer and monitor a system of competitive grants for eligible organizations providing pilot after school educational programs consistent with the Constitution of Tennessee, Article XI, § 5.

(2) The grants shall be available in any fiscal year in which funds are available in the LEAP grant fund for such grants.

(3) The grants shall supplement, not supplant, nonlottery educational resources for after school educational programs and purposes.

(c)(1) The purpose of the pilot after school educational programs shall be to increase performance for at-risk students on the ACT or SAT examinations, in order to expand the number of students in the at-risk population eligible for lottery scholarships and to increase the abilities of students to excel in postsecondary education. The programs shall serve at-risk students in grades seven through nine (7-9). The programs shall prepare students to take the EXPLORE and PLAN ACT preparatory examinations or the PSAT/NMSQT preparatory examination and eventually to take the ACT or SAT examinations.

(2) Six (6) pilot after school educational programs shall be established with two (2) programs in each grand division of the state. One (1) program in each grand division shall be in a rural area. The other program in each grand division shall be in an urban area. Each pilot program shall serve no more than sixty (60) students.

(d)(1) In accordance with rules and regulations promulgated by the state board of education and on the recommendation of the commissioner of education, grants shall be awarded to public schools, public charter schools

or public and not-for-profit organizations that propose to provide pilot after school educational programs. A pilot after school educational program grant shall be awarded for a period of three (3) years with moneys for the grant earmarked in the LEAP grant fund and disbursed annually during the life of the grant according to the terms of the grant in accordance with the method of administration of the grant program adopted by the department of education pursuant to § 49-6-701(d)(2).

(2) An organization shall be eligible if the organization proposes to operate a program that provides:

(A) Academic tutoring and skills development in subjects covered by EXPLORE, PLAN, and ACT examinations or PSAT/NMSQT and SAT examinations; and

(B) Test taking skills and strategies.

(e) [Deleted by 2019 amendment.]

(f) The state board of education, on the recommendation of the commissioner of education, is authorized to promulgate rules and regulations to effectuate this part. All rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-6-809. Policy authorizing off-duty law enforcement officers to serve as armed school security officers —Memorandum of understanding — List of qualified officers — Funding — Report.

(a) For purposes of this section, “law enforcement officer” means the sheriff, sheriff’s deputies, or any police officer employed by the state, a municipality, county, or political subdivision of the state certified by the peace officer standards and training (POST) commission; any commissioned member of the Tennessee highway patrol; and any Tennessee county constable authorized to carry a firearm and who has been certified by the POST commission.

(b)(1) To increase the protection and safety of students and school personnel, local boards of education may adopt a policy authorizing off-duty law enforcement officers to serve as armed school security officers during regular school hours when children are present on the school’s premises, as well as during school-sponsored events.

(2) Nothing in this section shall require a local board of education to adopt a policy permitting an off-duty law enforcement officer to serve as an armed school security officer.

(c)(1) If a local board of education adopts a policy authorizing off-duty law enforcement officers to serve as armed school security officers, the LEA shall execute a written memorandum of understanding (MOU) with each law enforcement agency that employs the law enforcement officers selected by the chief law enforcement officer of the law enforcement agency to serve as armed school security officers.

(2) Any MOU entered into pursuant to subdivision (c)(1) shall contain the following:

(A) A provision that prescribes the types of firearms that may be carried by an armed school security officer on school premises and the manner in which the armed school security officer’s firearm may be carried; provided, that the MOU shall not prohibit an off-duty law enforcement officer who is serving as an armed school security officer from carrying a loaded

handgun on school premises;

(B) A provision limiting the role of armed school security officers to that of maintaining safety in the school and prohibiting armed school security officers from addressing routine school discipline issues that do not constitute crimes or that do not impact the immediate health or safety of the students or staff of the school;

(C) Provisions stipulating that off-duty officers serving as armed school security officers are required to follow the policies of the officer's employing law enforcement agency;

(D) Procedures for communication among the LEA, armed school security officers, school resource officers, and local law enforcement agencies;

(E) A description of any policies, procedures, or other requirements that the armed school security officers must follow when responding to an emergency on school grounds;

(F) A statement requiring that armed school security officers comply with all state and federal laws regarding the confidentiality of personally identifiable student information;

(G) Procedures for addressing complaints against armed school security officers;

(H) A provision detailing how liability will be provided for any acts or omissions of the armed school security officer within the scope of the armed school security officer's duties, except for willful, malicious, or criminal acts or omissions or for acts or omissions done for personal gain;

(I) A provision detailing how scheduling will be determined; and

(J) The hours and wages of each armed school security officer assigned to a school in the LEA.

(3) Any MOU entered into pursuant to subdivision (c)(1) may prescribe:

(A) Whether an armed school security officer is required to be uniformed while on school premises; or

(B) Other means for proper identification of the armed school security officer.

(4)(A) If a MOU entered into pursuant to this subsection (c) would permit law enforcement officers to serve as armed school security officers at a school that is located within the jurisdictional boundaries of another law enforcement agency that is not the law enforcement officers' employing agency, then the MOU shall not take effect until approved in writing by the chief law enforcement officer of the law enforcement agency with law enforcement jurisdiction for the school.

(B) Notwithstanding title 6, chapter 54, part 3, or any other law to the contrary, a law enforcement officer who is serving as an armed school security officer pursuant to this section for a school located outside of the jurisdictional boundaries of the officer's employing agency shall, while acting within the scope of the officer's employment as an armed school security officer, have the jurisdiction and authority to enforce all laws of this state and of the county or municipality in which the school at which the officer is serving as an armed school security officer is located.

(d)(1) The chief law enforcement officer of each law enforcement agency in this state shall prepare and distribute a list of its law enforcement officers who the chief law enforcement officer deems qualified and who are interested in serving as armed school security officers pursuant to this section to each LEA that is located within the law enforcement agency's jurisdictional

boundaries and with which a MOU has been entered into in accordance with the provisions of this section. The chief law enforcement officer shall consider the federal Fair Labor Standards Act when considering an officer's qualification to serve as an armed school security officer.

(2) The chief law enforcement officer of a law enforcement agency may prohibit a law enforcement officer employed by another law enforcement agency from serving as an armed school security officer at a school located within the chief law enforcement officer's jurisdiction for reasons the chief law enforcement officer deems sufficient, including, but not limited to, if the law enforcement officer has received a disciplinary action within the last five (5) years that resulted in, at a minimum, a written reprimand. The chief law enforcement officer shall notify any such officer the chief prohibits from serving as an armed school security officer by sending a written notice of the prohibition to the law enforcement officer and the law enforcement officer's employing agency. The law enforcement officer is entitled to compensation pursuant to this section for any service as an armed school security officer performed by the officer prior to receipt of the written notice by the earlier of the law enforcement officer or the law enforcement officer's employing agency.

(e) If an LEA adopts a policy authorizing the use of armed school security officers, then funding for the armed school security officers may come from a law enforcement agency or from the LEA, including, but not limited to, local, state, or federal funds received by the LEA, for which purpose such funds may be lawfully expended.

(f)(1) Nothing in this section shall be construed to require an LEA or a law enforcement agency of the county to assign or provide funding for an armed school security officer.

(2) Nothing in § 49-3-315 shall be construed to require an LEA or a law enforcement agency of the county to assign or provide funding for an armed school security officer as defined in this section to any school system within that county on the basis of the WFTEADA, as defined by § 49-3-302. The provision of armed school security officers by local law enforcement agencies shall be considered a law enforcement function and not a school operation or maintenance purpose that requires the apportionment of funds pursuant to § 49-3-315.

(g) The use of armed school security officers shall be supplemental to school resource officers and school safety measures adopted by an LEA and shall not supplant school resource officers or other school security measures. An LEA shall not replace a school resource officer or other school security measure with an armed school security officer. A law enforcement agency shall not terminate a MOU for the provision of school resource officers based solely upon an LEA's adoption of a policy authorizing the use of armed school security officers.

(h) Following the conclusion of the 2020-2021 school year, the chief law enforcement officer of each law enforcement agency with law enforcement jurisdiction for a school that has utilized armed school security officers pursuant to this section shall submit a report to the governor, the chair of the education committee of the house of representatives, the chair of the education committee of the senate, and the commissioner of education on or before September 1, 2021, that details any school security deficiencies and that provides recommendations for security improvements for each such school. If the report requirement of this subsection (h) affects more than one (1) law

enforcement agency within any one (1) county, then the affected chief law enforcement officers shall submit a single, consolidated report covering the schools that have utilized armed school security officers pursuant to this section.

49-6-1003. [Repealed.]

49-6-1017. Sexual violence awareness curriculum.

(a) Subject to the guidance and approval of the state board of education, local boards of education are urged to develop a sexual violence awareness curriculum for presentation at least once in grades seven (7) and eight (8) and at least once, preferably twice, in grades nine through twelve (9-12), as part of the wellness, family life, safety, or other existing curricula. The curriculum should include instruction to increase students' awareness and understanding of teen dating violence and sexual violence, including, but not limited to, date rape, acquaintance rape, stranger rape, statutory rape, rape prevention strategies, resources and support available to victims of teen dating violence and sexual violence, and prosecution of crimes associated with teen dating and sexual violence.

(b) The curriculum should address, in age-appropriate language, topics including, but not limited to:

- (1) What teen dating violence is;
- (2) What sexual violence is, and specifically, what date rape, acquaintance rape, stranger rape, and statutory rape are and the dangers of sexual violence;
- (3) What are the methods and means of avoiding and preventing victimization from teen dating violence or sexual violence;
- (4) How alcohol and other drugs are used to facilitate date rape or acquaintance rape, and the dangers of these substances;
- (5) Why there is a need for prompt medical attention and medical evaluation of victims of sexual violence;
- (6) What is the nature and prevention of AIDS and other sexually transmitted diseases;
- (7) How to preserve forensic evidence of sexual violence and specifically what victims should and should not do after being sexually assaulted;
- (8) Who are the authorities to whom teen dating violence and sexual violence should be reported in a timely manner, including, but not limited to, identification of and telephone numbers for local law enforcement personnel to whom sexual crimes should be reported;
- (9) What persons, including school personnel, and organizations provide support and resources for victims of teen dating violence and sexual violence; and
- (10) What are the penalties and long-term consequences resulting from conviction of sexual crimes, including, but not limited to, rape and statutory rape.

49-6-1018. Governor's Civics Seal.

(a) There is established the Governor's Civics Seal to recognize public schools and local education agencies that implement high-quality civic education programs that prepare students for career and civic life.

808

(b) The department of education shall identify on the state report card:

(1) Each school earning the Seal as a Tennessee Excellence in Civics Education School; and

(2) Each local education agency in which at least eighty percent (80%) of the LEA's schools earn the Seal as a Tennessee Excellence in Civics Education District.

(c) The department shall develop, and the state board of education shall adopt, criteria that a school must meet to earn the Seal. The criteria must require the school to:

(1) Incorporate civic learning across a broad range of grades and academic subjects that build on the Tennessee academic standards, such as the civics lesson plans and the blue book lesson plans provided by the secretary of state;

(2) In accordance with § 49-6-1028, provide instruction regarding our nation's democratic principles and practices, the significant events and individuals responsible for the creation of our foundational documents, and the formation of the governments of the United States and the State of Tennessee using the federal and state foundational documents;

(3) Provide professional development opportunities or student resources that facilitate civics education, such as civics education workshops offered by the secretary of state;

(4) Provide opportunities for students to engage in real-world learning activities, including the secretary of state's student mock election and civics essay contest;

(5) Have fully implemented a high-quality, project-based assessment in accordance with § 49-6-1028(e), if applicable; and

(6) Be recognized as a civics all-star school in accordance with § 49-6-408, if applicable.

49-6-1020. Recycling program.

Each public school, under the guidance of the school's LEA, is encouraged to adopt a recycling program.

49-6-1021. Opportunities for physical activity.

(a) In accordance with § 49-6-1022, it shall be the duty of each LEA to integrate:

(1) For elementary school students, a minimum of one hundred thirty (130) minutes of physical activity per full school week; and

(2) For middle and high school students, a minimum of ninety (90) minutes of physical activity per full school week.

(b) Physical activity may include walking, jumping rope, playing volleyball, or other forms of physical activity that promote fitness and well-being; however, walking to and from class shall not be considered physical activity for purposes of this section. To satisfy the requirements of subdivision (a)(1), an LEA shall offer elementary students at least one fifteen-minute (15) minute period of physical activity per day.

(c) The office of coordinated school health in the department of education shall provide an annual report by October 1, to the education committee of the house of representatives and the education committee of the senate on the implementation of subsection (a). The report shall contain at least the

following information:

(1) The percentage of public schools that integrate the required physical activity into the instructional school day in compliance with subsection (a);

(2) The types of physical activities that are used to meet the physical activity requirement;

(3) Any barriers that have limited full compliance with the physical activity requirement;

(4) Innovative methods that schools use to comply with the physical activity requirement;

(5) The ranking of Tennessee schools in providing physical activity and physical education as compared to other states;

(6) Relevant data or studies that link physical activity or physical education to academic performance in students;

(7) Relevant data or studies showing whether increased physical activity or physical education lead to better health outcomes;

(8) The annual percentage of increase or decrease in compliance with the physical activity requirement in school districts with average daily membership of twenty-five thousand (25,000) or more students; and

(9) An overall summary and a set of recommendations to promote active living in the youth of this state, including, but not limited to, suggestions for increasing compliance with the physical activity requirement that can be implemented with minimal cost.

(d) Nothing in this section shall prevent an LEA from integrating more student physical activity for elementary, middle, and high school students during the school week than required in subsection (a). The requirements of subsection (a) may work in conjunction with the school's physical education program, but subsection (a) shall not replace the current physical education program in a school.

(e)(1) In addition to the integration of physical activity into the instructional school day according to subsection (a), each LEA shall require each student in elementary school to participate in a physical education class that meets at least two (2) times per full school week during the school year. The total physical education class time each full school week shall be no less than sixty (60) minutes.

(2) The physical education class shall meet the needs of students of all physical ability levels, including students with disabilities who shall participate in moderate physical activity to the extent appropriate as determined by the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.), Section 504 of the Rehabilitation Act (29 U.S.C. § 701 et seq.), or the student's individualized education program. An accommodation or alternative physical activity shall be provided for children with disabilities, if necessary.

(3) The physical education class required by this subsection (e) shall be taught by a licensed teacher with an endorsement in physical education or by a specialist in physical education.

(4) A student shall be excused from a physical education class for medical reasons. The LEA may require a parent or legal guardian to provide documentation of a student's reason for being excused from the physical education class.

(5)(A) This subsection (e) shall not apply to any county having a population of not less than thirty-eight thousand three hundred (38,300) nor

more than thirty-eight thousand four hundred (38,400), according to the 2010 federal census or any subsequent federal census, until the 2021-2022 school year; and

(B) This subsection (e) shall not apply to any county having a population of not less than fifty-seven thousand four hundred (57,400) nor more than fifty-seven thousand five hundred (57,500), according to the 2010 federal census or any subsequent federal census, until the 2021-2022 school year.

(f) Each LEA shall file an annual report with the commissioner of education verifying that the LEA has met the physical education requirements of this section.

(g) Subsections (e) and (f) apply to the 2020-2021 school year and each school year thereafter.

49-6-1028. Legislative findings — Public school courses and content to educate children in the United States and Tennessee governments.

(a) The general assembly finds that:

(1) Effective and responsible participation in political life as competent citizens requires the acquisition of a body of knowledge and of intellectual and participatory skills;

(2) It is essential to the future health of our republic that all citizens be knowledgeable about democratic principles and practices, including fundamental documents such as the state and federal constitutions, the Declaration of Independence, and the Gettysburg Address;

(3) Individuals who have a clear and full understanding of the rights and responsibilities of citizens in a republic are more likely to exercise and defend those rights and responsibilities; and

(4) Providing civic education and promoting good citizenship and understanding fundamental democratic principles should be core missions of Tennessee secondary schools.

(b)(1) The state board of education shall include in the social studies standards, at the appropriate grade level or levels in high school, as determined by the state board of education through standards and the local board of education through curriculum, courses and content designed to educate children about the United States and Tennessee governments. The standards shall include the three (3) branches of government, the fundamental documents identified in § 49-6-1011(a) that underpin our form of government, an understanding of how laws are enacted, and ways citizens shape and influence government and governmental actions.

(2) Students shall be taught about the formation of the governments of the United States and Tennessee using federal and state foundational documents. They shall also be taught the significance and relevance of those federal and state foundational documents today. This instruction shall include:

(A) The historical and present-day significance of the Declaration of Independence;

(B) How the United States Constitution establishes the federal government and the characteristics of the republic created by it;

(C) How the United States Constitution with the Bill of Rights and the Tennessee Constitution with the Declaration of Rights are applicable in

today's society;

(D) How the United States Constitution is changed and the changes that have been made to it since 1787;

(E) Why Tennessee has had three (3) constitutions, the Constitutions of 1796, 1834, and 1870, and how changes have been made to the Tennessee Constitution of 1870; and

(F) How other foundational documents of the United States and Tennessee aided in the formation of the federal and state governments.

(c) The commissioner of education shall advise all local boards of education of the requirements of this section.

(d) [Deleted by 2019 amendment.]

(e)(1) Beginning with the 2012-2013 school year, in conjunction with the social studies curriculum, all LEAs shall implement a project-based assessment in civics at least once in grades four through eight (4-8) and at least once in grades nine through twelve (9-12). The assessments shall be developed by the LEA and designed to measure the civics learning objectives contained in the social studies curriculum and to demonstrate understanding and relevance of public policy, the structure of federal, state and local governments and both the Tennessee and the United States constitutions.

(2) The department of education may seek the assistance of appropriate outside entities, including the Tennessee Center for Civic Learning and Engagement, to assist it with the implementation of any necessary professional development on the use of project-based assessments of civics learning.

(3) For the purposes of this section, "project-based" means an approach that engages students in learning essential knowledge and skills through a student-influenced inquiry process structured around complex, authentic questions and carefully designed products and tasks.

(4) LEAs shall submit verification of implementation of this section to the department of education.

(f) **[Effective until July 1, 2020.]**

(1) To educate public school students in kindergarten through grade twelve (K-12) about the ratification of the nineteenth amendment to the United States Constitution on August 18, 1920, and to educate students on the State of Tennessee's fundamental role in guaranteeing all women the right to vote, the department of education and public schools shall, throughout the 2019-2020 school year, commemorate the centennial of women's suffrage and recognize the Tennesseans who were instrumental in securing all women the right to vote.

(2) The department of education, the state library and archives, and the secretary of state shall promote, and post information on their respective websites about, the centennial of women's suffrage.

(3) During each month of the 2019-2020 school year, public schools shall provide instruction to students in kindergarten through grade twelve (K-12) on different aspects of the women's suffrage movement that aligns with the timing of the legislative events of the year immediately preceding the ratification of the nineteenth amendment to the United States Constitution on August 18, 1920.

(4) The department of education shall provide each LEA and public charter school with a variety of age-appropriate and grade-appropriate internet resources and materials that may be used to instruct public school

812

students about the centennial of women's suffrage. The resources and materials identified by the department should aid educators and curriculum coordinators in creating programs and lesson plans to celebrate the centennial of women's suffrage. Each LEA and public charter school shall determine the resources and materials that will be used to provide the instruction required under this subsection (f).

(5) The instruction required under this subsection (f) must comply with § 49-6-1011.

(6) This subsection (f) is repealed on July 1, 2020.

49-6-1029. [Repealed.]

49-6-1204. [Repealed.]

49-6-1208. Cardiopulmonary resuscitation (CPR) program for junior or senior high schools curriculum.

(a) The state board of education may provide for a program of instruction on cardiopulmonary resuscitation (CPR) techniques commensurate with the learning expectations within the lifetime wellness curriculum for public junior or senior high schools. All students should participate in this introduction at least once during their attendance in junior or senior high school.

(b) It is not the intention of this section to require full certification in CPR. It is the intention of the section that students will learn the techniques and practice the psychomotor skills associated with performing CPR. For the purposes of this section, "psychomotor skills" means the use of hands-on practice and skills testing to support cognitive learning and shall not include cognitive-only training.

(c)(1) The program of instruction on CPR must include instruction on the use of an automatic external defibrillator (AED) and the location of each AED in the school. The school shall conduct a CPR and AED drill so that the students are aware of the steps that must be taken if an event should occur that requires the use of an AED.

(2) This subsection (c) shall not apply to any school operated by or under contract with the department of children's services.

49-6-1210. Internship programs.

LEAs are authorized to offer internship programs for elective credits in the high school curriculum through cooperative agreements with local or state governments in the geographical area served by the LEA. An internship program must be a minimum of six (6) weeks and may be offered during the summer or the school year.

49-6-1304. Family life instruction.

(a) A family life curriculum shall, to the extent that the topic and the manner of communication is age-appropriate:

(1) Emphatically promote only sexual risk avoidance through abstinence, regardless of a student's current or prior sexual experience;

(2) Encourage sexual health by helping students understand how sexual activity affects the whole person including the physical, social, emotional, psychological, economic and educational consequences of nonmarital sexual

activity;

(3) Teach the positive results of avoiding sexual activity, the skills needed to make healthy decisions, the advantages of and skills for student success in pursuing educational and life goals, the components of healthy relationships, and the social science research supporting the benefits of reserving the expression of human sexual activity for marriage;

(4) Provide factually and medically-accurate information;

(5) Teach students how to form pro-social habits that enable students to develop healthy relationships, create strong marriages, and form safe and stable future families;

(6) Encourage students to communicate with a parent, guardian, or other trusted adult about sex or other risk behaviors;

(7) Assist students in learning and practicing refusal skills that will help them resist sexual activity;

(8) Address the benefits of raising children within the context of a marital relationship and the unique challenges that single teen parents encounter in relation to educational, psychological, physical, social, legal, and financial factors;

(9) Discuss the interrelationship between teen sexual activity and exposure to other risk behaviors such as smoking, underage drinking, drug use, criminal activity, dating violence, and sexual aggression;

(10) Educate students on the age of consent, puberty, pregnancy, child-birth, sexually transmitted diseases, including but not limited to HIV/AIDS, and the financial and emotional responsibility of raising a child;

(11) Teach students how to identify and form healthy relationships, and how to identify and avoid unhealthy relationships;

(12) Notwithstanding § 49-6-1302(a)(1), inform students, in all LEAs, concerning the process of adoption and its benefits. The state board of education, with the assistance of the department of education, shall develop guidelines for appropriate kindergarten through grade twelve (K-12) instruction on adoption, what adoption is, and the benefits of adoption. The guidelines shall be distributed by the department of education to each LEA by the start of the 2015-2016 school year; and

(13) Provide instruction on the detection, intervention, prevention, and treatment of:

(A) Child sexual abuse, including such abuse that may occur in the home, in accordance with the declarations and requirements of §§ 37-1-601(a) and 37-1-603(b)(3); and

(B) Human trafficking in which the victim is a child. The instruction provided under this subdivision (a)(13)(B) must be accomplished through the viewing of a video recording approved by the LEA.

(b) Instruction of the family life curriculum shall not:

(1) Promote, implicitly or explicitly, any gateway sexual activity or health message that encourages students to experiment with noncoital sexual activity;

(2) Provide or distribute materials on school grounds that condone, encourage or promote student sexual activity among unmarried students;

(3) Display or conduct demonstrations with devices specifically manufactured for sexual stimulation; or

(4) Distribute contraception on school property; provided, however, that medically-accurate information about contraception and condoms may be

provided so long as it is presented in a manner consistent with the preceding provisions of this part and clearly informs students that while such methods may reduce the risk of acquiring sexually transmitted diseases or becoming pregnant, only abstinence removes all risk.

49-6-1306. Complaint by parent or legal guardian — Cause of action by parent or guardian.

(a) Notwithstanding any other law to the contrary, a parent or legal guardian of a student enrolled in family life may file a complaint with the director of schools if the parent or legal guardian believes that a teacher, instructor, or representative of an organization has not complied with the requirements of this part. The director shall investigate the complaint and report such director's findings, along with any recommendations for disciplinary action, to the local board for further action. The local board shall file, in a timely manner, a report with the commissioner regarding any action or inaction taken. On an annual basis, the commissioner shall transmit those filings to the chair of the education committee of the senate and the chair of the education committee of the house of representatives.

(b)(1) If a student receives instruction by an instructor or organization that promotes gateway sexual activity or demonstrates sexual activity, as prohibited under this part, then the parent or legal guardian shall have a cause of action against that instructor or organization for actual damages plus reasonable attorney's fees and court costs; provided, however, that this subsection (b) shall not apply to:

(A) Instruction provided by teachers employed by the LEA; or

(B) Instruction provided by instructors employed by an LEA-approved organization, or by LEA-approved instructors, that is limited to the detection, intervention, prevention, and treatment of child sexual abuse, including such abuse that may occur in the home, in accordance with §§ 37-1-601(a), 37-1-603(b)(3), and 49-6-1303(b). Any LEA-approved organization, instructor employed by an LEA-approved organization, or LEA-approved instructor who promotes any gateway sexual activity, demonstrates sexual activity, or teaches student nonabstinence as an appropriate or acceptable behavior, as prohibited under this part, shall be subject to a cause of action by a parent or legal guardian pursuant to this subdivision (b)(1).

(2) If the parent or legal guardian is the prevailing party to the action, the court may impose a civil fine in an amount not to exceed five hundred dollars (\$500).

(3) An action brought under this subsection (b) shall be commenced within one (1) year after the alleged violation occurred.

(c) This section shall not apply to instruction by any teacher, instructor, or organization, who, with respect to a course or class otherwise offered in accordance with the requirements of this part, verbally answers in good faith any question, or series of questions, germane and material to the course, asked of the instructor and initiated by a student or students enrolled in the course.

49-6-2007. Sale or transfer of surplus property.

(a) It is the general assembly's intent that surplus property in a local education agency (LEA) acquired by taxpayers' dollars, instead of being destroyed, be sold or transferred to a local government, as provided in

§ 49-6-2006.

(b) All LEAs that receive any state funds shall sell surplus property to the highest bidder after advertising in a newspaper of general circulation at least seven (7) days prior to the sale. The sale may be to the highest bidder through an internet auction website used by the LEA, the local government, or this state. An internet auction conducted under this subsection (b) must be open for bidding for at least seven (7) days. Advertisements for the sale must be in accordance with § 49-6-2006(c)(2).

(c) As used in this section, “surplus property” is that personal property no longer having an intended use by the LEA or no longer capable of being used because of its condition.

(d)(1) Surplus personal property of LEAs that has no value or that has a value of less than five hundred dollars (\$500) may be disposed of without the necessity of bids as required by this section.

(2) In order for disposal without bids, the executive committee of the local board of education must agree in writing that the property is of no value to the LEA or has a value of less than five hundred dollars (\$500).

(e) This section does not apply to property leased or sold pursuant to § 49-2-203(b)(10).

(f) Notwithstanding any law to the contrary, an LEA may:

(1) Donate computers that have been removed from inventory in its schools to low-income families in the school district. The memory hard drives of all computers to be donated under this subdivision (f)(1) must be sanitized. The department of education shall provide guidance to LEAs as to the donation of such computers, including, but not limited to, setting standards for determining whether a family qualifies for the donation of a computer; or

(2) Dispose of computers by selling or trading them to computer vendors or manufacturers as part of the proposal to purchase new computers for the LEA without having to comply with the bidding requirements of subsection (b).

49-6-2119. Policy for parents to view photographs or video footage from cameras on school buses.

(a) A local board of education shall adopt a policy that establishes a process to allow a parent of a student to view photographs or video footage collected from a camera or video camera installed inside a school bus if the local education agency (LEA) has one (1) or more school buses operating in the LEA with a camera or video camera installed inside a school bus that is used to transport students to and from school or school-sponsored activities.

(b) The policy must require that photographs or video footage be viewed under the supervision of the director of schools or a school official designated by the director of schools. The policy must comply with § 10-7-504, the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), and other relevant state or federal privacy laws. The policy must establish the duration for which an LEA must maintain photographs or video footage collected from a camera or video camera installed inside a school bus.

(c) Nothing in this section requires a local board of education to purchase camera or video recording equipment for school buses that operate within the LEA.

(d) As used in this section, “parent” means the parent, guardian, person who

816

has custody of the child, or individual who has caregiving authority under § 49-6-3001.

49-6-2201. State textbook and instructional materials quality commission.

(a)(1) There is created a state textbook and instructional materials quality commission composed of ten (10) members, nine (9) of whom shall be appointed as follows:

(A) The speaker of the senate shall appoint a:

(i) Director of schools; and

(ii) Teacher or instructional supervisor in the intermediate grades, grades four through eight (4-8);

(B) The speaker of the house of representatives shall appoint a:

(i) Director of schools; and

(ii) Teacher or instructional supervisor in the lower grades, grades kindergarten through three (K-3);

(C) The governor shall appoint a:

(i) Principal; and

(ii) Teacher or instructional supervisor in the upper grade subjects, grades nine through twelve (9-12);

(D)(i) The three (3) remaining members shall be citizens of this state who are not employed in the public kindergarten through grade twelve (K-12) educational system but who are knowledgeable of education issues in this state;

(ii) The citizen members listed in subdivision (a)(1)(D)(i) shall be appointed as follows:

(a) The governor shall appoint a person who resides in the western grand division of the state;

(b) The speaker of the senate shall appoint a person who resides in the eastern grand division of the state; and

(c) The speaker of the house of representatives shall appoint a person who resides in the middle grand division of the state; and

(E) If a member's initial qualification changes, the member shall be allowed to complete such member's term of appointment.

(2) The commissioner of education, or a deputy or assistant commissioner of education serving as the commissioner's designee, shall be an ex officio secretary of the commission, with the right to vote, and shall serve without additional compensation for such service.

(3) In making appointments pursuant to subdivisions (a)(1)(A)-(C), the appointing authorities shall strive to ensure that a proportionate number of persons are appointed to the commission from each grand division of the state.

(b)(1) Except as otherwise provided in subdivisions (b)(2) and (3), each appointed member shall be confirmed by joint resolution of the general assembly upon the recommendation of the education committee of the senate and the education committee of the house of representatives in the legislative session immediately following appointment.

(2) If the general assembly is not in session at the time a member is appointed to fill a vacancy, the new appointee shall serve for the term appointed unless such appointment is not confirmed within ninety (90) calendar days after the general assembly next convenes in regular session

following such appointment.

(3) If the general assembly is not in session when initial appointments are made, all initial appointments shall serve the terms prescribed pursuant to subdivision (d)(2), unless such appointments are not confirmed within ninety (90) days after the general assembly next convenes in regular session following such appointments.

(c) Except as provided in subsection (d) for initial appointments, the terms of the members of the commission shall be three (3) years.

(d)(1) The entire membership of the commission as comprised on June 30, 2018, shall be vacated on July 1, 2018, and new members shall be appointed and confirmed in accordance with subsections (a) and (b).

(2) In order to stagger the terms of the newly appointed commission members, initial appointments shall be made as follows:

(A) The persons appointed pursuant to subdivision (a)(1)(D)(ii) shall serve an initial term of one (1) year, which shall expire on June 30, 2019;

(B) The persons appointed pursuant to subdivisions (a)(1)(A)(i), (a)(1)(B)(i), and (a)(1)(C)(i) shall serve an initial term of two (2) years, which shall expire on June 30, 2020; and

(C) The persons appointed pursuant to subdivisions (a)(1)(A)(ii), (a)(1)(B)(ii), and (a)(1)(C)(ii) shall serve an initial term of three (3) years, which shall expire on June 30, 2021.

(e)(1) Following the expiration of members' initial terms as prescribed in subdivision (d)(2), all three-year terms shall begin on July 1 and terminate on June 30, three (3) years thereafter.

(2) In the event of a vacancy, the respective appointing authority shall fill the vacancy for the unexpired term.

(f) At the first regular meeting in each calendar year, the members of the commission shall elect a chair for a one-year term or until a successor is elected.

(g)(1) Before members of the commission begin to discharge their duties, they shall take and subscribe to the following oath: "I do hereby declare that I am not now directly or indirectly financially interested in, or employed by, any textbook or instructional materials publisher or agency, and that I will not become directly or indirectly financially interested in any of the proposed contracts, nor in any book or instructional materials, nor in any publishing concern handling or offering any books or other publications to the commission, of which I am a member, for listing and adoption, and I do hereby promise that I will act honestly, faithfully, and conscientiously, and in all respects will discharge my duty as a member of this commission to the best of my skill and ability."

(2) A violation of the oath taken pursuant to subdivision (g)(1) as determined by the department of education, in consultation with the commission, shall be grounds for the removal of a member by the respective appointing authority. A violation of the oath taken pursuant to subdivision (g)(1) may subject the commission member to criminal prosecution pursuant to applicable criminal statutes.

(h) The department of education shall assist the commission by providing mandatory training to newly appointed members on the textbook and instructional materials review process and the completion of their assigned tasks, including, but not limited to, the following:

(1) The delivery of quality textbook and instructional materials programs to the LEAs of the state, as fulfilled through the development of rules for the

bidding and contracting of textbook and instructional materials programs;

(2) The adoption of physical standards and specifications that assure suitable durability of the textbooks, instructional materials, and supplemental materials;

(3) The review of programs bid against the academic standards approved by the state board of education;

(4) The establishment of contracts that guarantee the availability of adopted programs to all LEAs at the lowest price;

(5) The authority, responsibility, and duties of the commission, which include a review of the statutes and rules that govern the commission and the textbook and instructional materials review process;

(6) The time frame for the textbook and instructional materials review process;

(7) The process of appointing members to the advisory panels and expectations of the members of the panels;

(8) The First Amendment to the United States Constitution as it applies to the textbook and instructional materials adoption process; and

(9)(A) The goals of the textbook and instructional materials book review process. The commission shall not approve a textbook or instructional materials for adoption by LEAs unless the textbook or instructional materials:

(i) Conform to the standards for its subject area or grade level;

(ii) Are free of any clear, substantive, factual, or grammatical error; and

(iii) Comply with and reflect the values expressed in § 49-6-1028(b), if the textbook or instructional materials are being considered for adoption as a textbook or instructional materials for education of students in general studies and specifically in United States history and this nation's republican form of government;

(B) Nothing in this part prohibits the use of or applies to supplemental instructional materials.

(i)(1) No member of the commission shall receive any gift, reward, present, or emolument from any author, publisher, or distributor of textbooks or instructional materials, except copies of textbooks and instructional materials offered for listing and adoption.

(2) No member or employee of the commission shall accept any employment as agent, attorney, subagent, employee, or representative of any author, publisher, or distributor of textbooks or instructional materials during the person's term of service on the commission, nor within twelve (12) months after the expiration of the person's term of office.

(3)(A) No author, publisher, agent, attorney, employee, or representative of any author, publisher, or distributor shall give any gift, reward, present, or emolument to any member of the commission nor make any offer of employment to a member of the commission during the member's term of service whereby the member is to become the agent, employee, attorney, or representative of the author or publisher.

(B) Any contract, expressed or implied, made by any person, firm, or corporation in violation of subdivision (i)(3)(A) is declared to be illegal and void and no recovery thereon shall be had.

(4) A commission member who knowingly violates subdivision (i)(1) or (i)(2) may be subject to criminal prosecution pursuant to applicable criminal

statutes.

(j) Members of the commission shall not be compensated for their services but may be reimbursed for travel expenses in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(k)(1) Six (6) members of the commission shall constitute a quorum for the purpose of meeting and conducting business.

(2) No action of the commission shall be valid unless authorized by the affirmative vote of a majority of the members of the commission.

(3) The commission shall have two (2) regular meetings each school year to be held on the dates determined and announced by the commission. Notice of each regular meeting of the commission shall be posted on the department's website within three (3) full business days of the setting of the meeting dates.

(4) The commission may have as many special meetings as it deems necessary; provided, that in no case shall any member or members of this commission receive traveling expenses for more than three (3) special meetings in one (1) school year.

(5) Public notice of the call for the special meetings shall be made by the secretary of the commission at least ten (10) business days in advance of the date set for the special meeting and shall be posted within one (1) full business day of the call.

(6) All meetings shall be held in the office of the commissioner of education or at such place as designated by the commission.

(7) Meetings of the commission shall be made available for viewing by the public over the internet by streaming video accessible from the website of the department of education. Archived videos of the commission's meetings shall also be available to the public through the department's website.

(l)(1)(A) The commission, through its chair, may recruit and appoint an advisory panel of expert teachers and other experts in each subject area or grade level to advise the commission on textbook and instructional material selections.

(B) At least one (1) teacher shall be appointed to each advisory panel. Teachers appointed to the advisory panels shall possess a license to teach with an endorsement in the subject area or grade level for which they shall review textbooks or instructional materials.

(C) Experts, who are not public school teachers, may include college professors and credentialed subject matter specialists.

(D) All members of advisory panels must have a specific knowledge of and expertise in the content of the subject matter contained in the textbooks or instructional materials they review.

(2) The department of education shall assist the commission by providing mandatory training to members of advisory panels on the review process and the completion of their assigned tasks. The mandatory training shall include:

(A)(i) The requirements for performing a thorough review of all textbooks or instructional materials assigned to a member for review. The review shall include an examination as to whether the textbooks or instructional materials:

- (a) Conform to the standards for their subject areas or grade levels;
- (b) Are free of any clear, substantive, factual, or grammatical

errors; and

(c) Comply with and reflect the values expressed in § 49-6-1028(b), if the textbook or instructional materials are being considered for adoption as a textbook or instructional materials for education of students in general studies and specifically in United States history and this nation's republican form of government; and

(ii) Nothing in this part prohibits the use of or applies to supplemental instructional materials;

(B) The use of any forms developed by the commission for making a review; and

(C) The time frame for completing their tasks.

(3) The advisory panelists shall individually make their recommendations and shall not be convened except upon the call of the chair of the commission. If convened, the panelists may be reimbursed from funds available to the commission for travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(4) The names of the reviewers, their positions, employers, and the panels on which they serve shall be identified on the department's website. The reviews of the members of an advisory panel shall be posted on the department's website without any information that would identify the reviewers.

(5) Each textbook or any instructional materials proposed for approval shall be reviewed by multiple members of the panel.

(6) Before issuing a recommendation on a textbook or on instructional materials, each advisory panelist shall review the public comments on the textbook or instructional materials posted on the department's website, pursuant to § 49-6-2203(d)(4). Each advisory panelist shall consider the public comments in making the panelist's recommendation.

(7) The commission shall evaluate all reviews submitted by the members of the advisory panel for each textbook or any instructional materials proposed for approval. The commission shall also review the public comments posted on the department's website, pursuant to § 49-6-2203(d)(4). If the reviews by the members of the advisory panel for a specific textbook or instructional materials do not lead to a clear recommendation as to the approval or rejection of the textbook or instructional materials or if the commission finds that the public comments indicate that further review of a textbook or any instructional materials is called for, then the commission shall conduct a public hearing as to whether the textbook or instructional materials should be approved. Notice of the public hearing shall be prominently posted on the home page of the department's website at least thirty (30) days prior to the meeting of the commission at which the textbook or instructional materials are to be considered.

(8) The commission is authorized to promulgate rules and regulations for the recruitment and appointment of members to the advisory panels and the process by which the members review their assigned texts.

49-6-2306. [Repealed.]

49-6-2404. Authority to form community consortiums to establish community schools — Centers of communities — Designation of individual to lead implementation of programming — Eligibility for community school grant.

(a) LEAs and schools are authorized and encouraged to form community consortiums with a variety of community partners to establish a community school or schools with an integrated focus on academics, health and social services, youth and community development and community engagement that will lead to improved student learning, stronger families and healthier communities.

(b) The community schools, formed pursuant to subsection (a), shall strive to become centers of their communities providing programs and services for persons of all ages. They shall be open to everyone throughout each day, including in the evenings, on weekends and in the summer.

(c) A community school must designate an individual to lead and coordinate the planning and implementation of programming for the school.

(d) A community school is not eligible for any community school grant available under this part unless the school has developed a plan that provides for:

- (1) Integrated student supports;
- (2) Expanded and enriched learning time and opportunities;
- (3) Active family and community engagement; and
- (4) Collaborative leadership and practices.

49-6-2405. Board and department to support and encourage LEAs in creation of community schools — Funding — Qualifications for community school grant — Duties of grant recipients.

(a) The state board of education and the department shall support and encourage LEAs in the creation of community schools. All policies, guidelines, and rules and regulations adopted by the state board pursuant to this part shall actively foster the formation, development and operation of community schools. Such policies, guidelines, or rules and regulations shall permit teachers to receive in-service credit for teaching classes for parents, such as parenting classes, at the community school outside of normal school hours.

(b)(1) The department shall strongly encourage LEAs and schools to combine multiple funding sources to create community schools and to support the schools. Federal funds that may be used for such purposes include, but are not limited to, grants provided under Titles I and IV of the Every Student Succeeds Act (Pub. L. No. 114-95).

(2) The department is encouraged to provide LEAs and schools with technical assistance, directly or through a resource and referral directory established and maintained by the department, to locate other available funding sources to create community schools and to support the schools, such as competitive grants, foundation awards, and private donations.

(c)(1) Subject to the availability of funding from private sources for creation and support of community schools, the department shall make community school grants available to fund community schools and to enhance programs

at community schools. If funding is available for community school grants, then a request-for-proposal process shall be used in awarding the grants. Proposals may be submitted on behalf of a school, an LEA, or a consortium of two (2) or more schools or LEAs. Proposals shall be evaluated and scored on the basis of criteria consistent with this part and other factors developed and adopted by the state board.

(2) No funds shall be appropriated for the 2014-2015 fiscal year for the creation and support of community schools. However, nothing in this part shall prohibit the general assembly from appropriating funds in fiscal years subsequent to the 2014-2015 fiscal year for creation and support of community schools.

(d) In order to qualify for a community school grant under this section, a community school must:

(1) Meet the requirements of § 49-6-2404(c) and (d);

(2) Have, at a minimum, the following components:

(A) Before and after school programming each school day to meet the identified needs of students;

(B) Weekend programming;

(C) Four (4) weeks of summer programming, which may be conducted during consecutive or nonconsecutive weeks;

(D) A local advisory group composed of school leadership, parents, and community stakeholders that establishes school-specific programming goals, assesses program needs, and oversees the process of implementing expanded programming;

(E) A program director or resource coordinator who is responsible for establishing the local advisory group, assessing the needs of students and community members, identifying programs to meet those needs, developing the before and after school, weekend, and summer programming, and overseeing the implementation of programming to ensure high-quality, robust participation;

(F) Programming that includes academic excellence aligned with the curriculum, life skills, healthy minds and bodies, parental support and community engagement, and that promotes staying in school, nonviolent behavior, and nonviolent conflict resolution;

(G) Maintenance of attendance records in all programming components;

(H) Maintenance of measurable data showing annual participation and the impact of programming on the participating children and adults;

(I) Documentation of true collaboration between the school and community stakeholders, including local governmental units, civic organizations, families, businesses, and social service providers; and

(J) A nondiscrimination policy ensuring that the community school does not condition participation upon race, ethnic origin, religion, sex, or disability; and

(3)(A) Conduct a baseline analysis of the school, the contents of which must be developed by the department of education in consultation with the LEA and any community partner providing community school programming; and

(B) Transmit the data collected from the analysis conducted under subdivision (3)(A) to the department at intervals determined by the department in order to measure the effectiveness of the community school

programming implemented at the school.

(e) Each grant recipient under subsection (c) shall:

(1) Conduct periodic evaluations of the progress achieved with funds allocated under a grant, consistent with the purposes of this part;

(2) Use the evaluations to refine and improve activities conducted with the grant and the performance measures for the activities;

(3) Make the results of the evaluations publicly available, including providing public notice of the availability; and

(4) Identify best practices and lessons learned for the purpose of helping other LEAs and schools in the formation of community schools and to revise the community school policies of the state board and the department.

49-6-2410. Identification of opportunities to support formation and effective administration of community schools.

(a) The department of education shall work with at least one (1) statewide coalition composed of practitioners, administrators, advocates, and other stakeholders to identify opportunities for the department to support the formation and effective administration of community schools in this state by focusing on and sharing best practices regarding:

(1) Professional development;

(2) Policy and advocacy;

(3) Communications;

(4) Stakeholder engagement; and

(5) Program evaluation.

(b) Subsection (a) does not prohibit the department of education from working with more than one (1) statewide coalition to effectuate the purposes of this section.

49-6-2601. Short title.

This part shall be known and may be cited as the “Tennessee Education Savings Account Pilot Program.”

49-6-2602. Part definitions.

As used in this part, unless the context otherwise requires:

(1) “Department” means the department of education;

(2) “Eligible postsecondary institution” means:

(A) An institution operated by:

(i) The board of trustees of the University of Tennessee;

(ii) The board of regents of the state university and community college system; or

(iii) A local governing board of trustees of a state university in this state; or

(B) A private postsecondary institution accredited by an accrediting organization approved by the state board of education;

(3) “Eligible student” means a resident of this state who:

(A)(i) Was previously enrolled in and attended a Tennessee public school for the one (1) full school year immediately preceding the school year for which the student receives an education savings account;

(ii) Is eligible for the first time to enroll in a Tennessee school; or

- (iii) Received an education savings account in the previous school year;
- (B) Is a student in any of the grades kindergarten through twelve (K-12);
- (C)(i) Is zoned to attend a school in an LEA, excluding the achievement school district (ASD), with ten (10) or more schools:
 - (a) Identified as priority schools in 2015, as defined by the state's accountability system pursuant to § 49-1-602;
 - (b) Among the bottom ten percent (10%) of schools, as identified by the department in 2017 in accordance with § 49-1-602(b)(3); and
 - (c) Identified as priority schools in 2018, as defined by the state's accountability system pursuant to § 49-1-602; or
- (ii) Is zoned to attend a school that is in the ASD on May 24, 2019; and
- (D) Is a member of a household with an annual income for the previous year that does not exceed twice the federal income eligibility guidelines for free lunch;
- (4) "ESA" means an education savings account created by this part;
- (5) "High school" means a school in which any combination of grades nine through twelve (9-12) are taught; provided, that the school must include grade twelve (12);
- (6) "Legacy student" means a participating student who:
 - (A)(i) Graduates from high school; or
 - (ii) Exits the program by reaching twenty-two (22) years of age;
- (B) Has funds remaining in the student's education savings account; and
- (C) Has an open education savings account;
- (7) "Local education agency" or "LEA" has the same meaning as defined in § 49-1-103;
- (8) "Parent" means the parent, guardian, person who has custody of the child, or individual who has caregiving authority under § 49-6-3001;
- (9) "Participating school" means a private school, as defined by § 49-6-3001(c)(3)(A)(iii), that meets the requirements established by the department of education and the state board of education for a Category I, II, or III private school, and that seeks to enroll eligible students;
- (10) "Participating student" means:
 - (A) An eligible student who is seventeen (17) years of age or younger and whose parent is participating in the education savings account program; or
 - (B) An eligible student who has reached the age of eighteen (18) and who is participating in the education savings account program;
- (11) "Program" means the education savings account program created in this part;
- (12) "Provider" means an individual or business that provides educational services in accordance with this part and that meets the requirements established by the department of education and the state board of education; and
- (13) "State board" means the state board of education.

49-6-2603. Eligibility to participate in education savings account program — Participation by student.

(a) To participate in the program, a parent of an eligible student who is seventeen (17) years of age or younger, or an eligible student who has reached the age of eighteen (18) must agree in writing to:

(1) Ensure the provision of an education for the participating student that satisfies the compulsory school attendance requirement provided in § 49-6-3001(c)(1) through enrollment in a private school, as defined in § 49-6-3001(c)(3)(A)(iii), that meets the requirements established by the department and the state board for a Category I, II, or III private school;

(2) Not enroll the participating student in a public school while participating in the program;

(3) Release the LEA in which the participating student resides from all obligations to educate the participating student while participating in the program. Participation in the program has the same effect as a parental refusal to consent to the receipt of services under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1414);

(4) Only use the funds deposited in a participating student's ESA for one (1) or more of the following expenses of the student:

(A) Tuition or fees at a participating school;

(B) Textbooks required by a participating school;

(C) Tutoring services provided by a tutor or tutoring facility that meets the requirements established by the department and the state board;

(D) Fees for transportation to and from a participating school or educational provider paid to a fee-for-service transportation provider;

(E) Fees for early postsecondary opportunity courses and examinations required for college admission;

(F) Computer hardware, technological devices, or other technology fees approved by the department, if the computer hardware, technological device, or technology fee is used for the student's educational needs and is purchased through a participating school, private school, or provider;

(G) School uniforms, if required by a participating school;

(H) Tuition and fees for summer education programs and specialized afterschool education programs, as approved by the department, which do not include afterschool childcare;

(I) Tuition and fees at an eligible postsecondary institution;

(J) Textbooks required by an eligible postsecondary institution;

(K) Educational therapy services provided by therapists that meet the requirements established by the department and the state board; or

(L) Fees for the management of the ESA by a private or non-profit financial management organization, as approved by the department. The fees must not exceed two percent (2%) of the funds deposited in a participating student's ESA in a fiscal year; and

(5) Verify that the student's household income meets the requirements of § 49-6-2602(3)(D) by providing a federal income tax return from the previous year or by providing proof that the parent of an eligible student who is seventeen (17) years of age or younger, or an eligible student who has reached the age of eighteen (18), is eligible to enroll in the state's temporary assistance for needy families (TANF) program. Household income must be verified under this subdivision (a)(5):

(A) When the parent of the eligible student or the eligible student, as applicable, submits an application to participate in the program; and

(B) At least once every year, according to the schedule and income-verification process developed by the department.

(b) This part does not prohibit a parent or third party from paying the costs of educational programs and services for a participating student that are not covered by the funds in an ESA.

(c) When a participating student reaches eighteen (18) years of age, the rights accorded to, and any consent required of, the participating student's parent under this part transfer from the participating student's parent to the participating student.

(d) For purposes of continuity of educational attainment, and subject to the eligibility requirements of § 49-6-2602(3)(A) and (B), a participating student may participate in the program, unless the student is suspended or terminated from participating in the program under § 49-6-2608, until:

(1) The participating student:

(A) Enrolls in a public school;

(B) Ceases to be a resident of the LEA in which the student resided when the student began participating in the program;

(C) Graduates or withdraws from high school; or

(D) Reaches twenty-two (22) years of age between the commencement of the school year and the conclusion of the school year, whichever occurs first; or

(2) The parent of the participating student or the participating student, as applicable:

(A) Fails to verify that the participating student's household income meets the requirements of § 49-6-2602(3)(D) according to the schedule and income-verification process developed by the department; or

(B) Verifies, according to the schedule and income-verification process developed by the department, that the participating student's household income does not meet the requirements of § 49-6-2602(3)(D).

(e) A participating student, who is otherwise eligible to return to the student's LEA, may return to the student's LEA at any time after enrolling in the program. Upon a participating student's return to the student's LEA, the student's ESA will be closed and any remaining funds must be returned to the state treasurer to be placed in the basic education program account of the education trust fund of 1992 under §§ 49-3-357 and 49-3-358.

(f)(1) If a participating student ceases to be a resident of the LEA in which the student resided when the student began participating in the program, then the student's ESA will be closed and any remaining funds must be returned to the state treasurer to be placed in the basic education program account of the education trust fund of 1992 under §§ 49-3-357 and 49-3-358.

(2) If the parent of a participating student or the participating student, as applicable, fails to verify that the participating student's household income meets the requirements of § 49-6-2602(3)(D) according to the schedule and income-verification process developed by the department, or if the parent of a participating student or the participating student, as applicable, verifies, according to the schedule and income-verification process developed by the department, that the participating student's household income does not meet the requirements of § 49-6-2602(3)(D), then the student's ESA will be closed and any remaining funds must be returned to the state treasurer to be placed in the basic education program account of the education trust fund

of 1992 under §§ 49-3-357 and 49-3-358.

(g) Any funds remaining in a participating student's ESA upon graduation from high school or exiting the program by reaching twenty-two (22) years of age may be used by the student when the student becomes a legacy student to attend or take courses from an eligible postsecondary institution, with qualifying expenses subject to the conditions of subdivision (a)(4).

(h) A participating student's ESA will be closed, and any remaining funds must be returned to the state treasurer to be placed in the basic education program account of the education trust fund of 1992 under §§ 49-3-357 and 49-3-358, after the first of the following events:

(1) Upon a legacy student's graduation from an eligible postsecondary institution;

(2) After four (4) consecutive years elapse immediately after a legacy student enrolls in an eligible postsecondary institution;

(3) After a participating student or legacy student exits the program and is not enrolled in an eligible postsecondary institution; or

(4) After a participating or legacy student reaches twenty-two (22) years of age and is not enrolled in an eligible postsecondary institution.

(i) Funds received pursuant to this part:

(1) Constitute a scholarship provided for use on qualified educational expenses listed in subdivision (a)(4); and

(2) Do not constitute income of a parent of a participating student under title 67, chapter 2 or any other state law.

(j) A student who is eligible for both the program created under this part and an individualized education account under the Individualized Education Act, compiled in chapter 10, part 14 of this title, may apply for both programs but must only participate and receive assistance from one (1) program.

(k) A participating student is ineligible to participate in a sport sanctioned by an association that regulates interscholastic athletics for the first year in which the student attends a participating school if:

(1) The participating student attended a Tennessee public school and participated in that sport;

(2) The student participated in that sport in the year immediately preceding the year in which the participating student enrolled in the participating school; and

(3) The participating student has not relocated outside the LEA in which the Tennessee public school that the participating student formerly attended is located.

(l) The state board shall adopt rules regarding the spending requirements for ESA funds and the use of any unspent funds, as well as rules providing for determining that a student is no longer participating in the program or that a student's ESA should be closed. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-6-2604. Procedures to determine student eligibility — Application form — Application process — Approval process — Number of participating students.

(a) The department shall establish:

(1) Procedures to determine student eligibility in accordance with the

requirements established by this part;

(2)(A) An application form that a parent of a student or a student who has reached eighteen (18) years of age may submit to the department to determine the student's eligibility for an ESA and make the application form readily available on the department's website;

(B) An application process that provides a timeline, before the start of the school year for which an application is being submitted, when a parent of a student, or a student who has reached eighteen (18) years of age, as applicable, must submit an application to participate in the program. If the application is approved, then the student may participate in the program beginning with the school year identified in the application. If a participating student exits the program, then the student's parent, or the student, as applicable, may reapply to participate in the program in accordance with the application process and timeline established by the department under this subdivision (a)(2)(B);

(3) An approval process for a Category I, II, or III private school to become a participating school;

(4) An application form that a Category I, II, or III private school may submit to the department to become a participating school and make the application form readily available on the department's website;

(5) An annual application period for a parent of a student, or a student who has reached eighteen (18) years of age, to apply for the program; and

(6) An income-verification process for a parent of a participating student who is seventeen (17) years of age or younger, or a participating student who has reached eighteen (18) years of age, as applicable, to verify that the participating student's household income meets the requirements of § 49-6-2602(3)(D).

(b) The program shall begin enrolling participating students no later than the 2021-2022 school year.

(c) The number of participating students enrolled in the program must not exceed:

(1) For the first school year of operation, five thousand (5,000) students;

(2) For the second school year of operation, seven thousand five hundred (7,500) students;

(3) For the third school year of operation, ten thousand (10,000) students;

(4) For the fourth school year of operation, twelve thousand five hundred (12,500) students; and

(5) For the fifth school year of operation, and for each school year thereafter, fifteen thousand (15,000) students.

(d)(1) Notwithstanding subsection (c), if, in the application period for a school year, the number of program applications received by the department does not exceed seventy-five percent (75%) of the maximum number of students that may participate in the program for that school year under subsection (c), then the maximum number of students that may participate in the program for that school year must remain in place for subsequent school years until the number of applications during a subsequent program application period exceeds seventy-five percent (75%) of that maximum number.

(2) Once the number of applications during a subsequent program application period exceeds seventy-five percent (75%) of the maximum number that has remained in place under subdivision (d)(1), then, during the next

school year for which an increase is practicable, the maximum number of students that may participate in the program for that school year shall increase to the number of students provided for under subsection (c) that is in excess of the most recent maximum number of students allowed to participate in the program.

(3) This subsection (d) is subject to the caps on the maximum number of students that may participate in the program for a particular school year under subsection (c).

(e) If, in the application period for a school year, the number of program applications received by the department exceeds the maximum number of students that may participate in the program for that school year under subsection (c), then the department shall select students for participation in the program through an enrollment lottery process. Students who participated in the program in the previous school year receive enrollment preference and, as a result, are excluded from entering into an enrollment lottery. If an enrollment lottery is conducted, then enrollment preference must be granted in the following order:

- (1) Students who have a sibling participating in the program;
- (2) Students zoned to attend a priority school as defined by the state's accountability system pursuant to § 49-1-602;
- (3) Students eligible for direct certification under 42 U.S.C. § 1758(b)(4); and
- (4) All other eligible students.

49-6-2605. Funding calculations — School improvement fund — Allowable uses of ESA funds — Participating schools — Administration of program.

(a) The maximum annual amount to which a participating student is entitled under the program must be equal to the amount representing the per pupil state and local funds generated and required through the basic education program (BEP) for the LEA in which the participating student resides, but must not exceed the combined statewide average of required state and local BEP allocations per pupil. The state board of education may promulgate rules to annually calculate and determine the combined statewide average of required state and local BEP allocations per pupil.

(b)(1) For the purpose of funding calculations, each participating student must be counted in the enrollment figures for the LEA in which the participating student resides. The ESA funds for participating students must be subtracted from the state BEP funds otherwise payable to the LEA. The department shall remit funds to a participating student's ESA on at least a quarterly basis. Any funds awarded under this part are the entitlement of the participating student or legacy student, under the supervision of the participating student's or legacy student's parent if the participating student or legacy student is seventeen (17) years of age or younger.

(2)(A) There is established a school improvement fund to be administered by the department that, for the first three (3) fiscal years in which the program enrolls participating students and subject to appropriation, shall disburse an annual grant to each LEA to be used for school improvement in an amount equal to the ESA amount for participating students under the program who:

(i) Were enrolled in and attended a school in the LEA for the one (1) full school year immediately preceding the school year in which the student began participating in the program; and

(ii) Generate BEP funds for the LEA in the applicable fiscal year that will be subtracted from the state BEP funds payable to the LEA under subdivision (b)(1).

(B)(i) Any balance of unused funds allocated to the program remaining at the end of any of the first three (3) fiscal years of the program must be disbursed as an annual school improvement grant to LEAs that have priority schools as defined by the state's accountability system pursuant to § 49-1-602, but that do not have participating students in the program.

(ii) After the first three (3) fiscal years in which the program enrolls participating students, the department shall disburse any appropriations to the fund established in this subdivision (b)(2) as school improvement grants for programs to support schools identified as priority schools, as defined by the state's accountability system pursuant to § 49-1-602, for 2021 or any year thereafter.

(3) Any balance in the fund established in subdivision (b)(2) remaining unexpended on the program at the end of any fiscal year after the third fiscal year does not revert to the general fund, but is carried forward for expenditure in subsequent years.

(c) The department shall provide parents of participating students or students, as applicable, with a written explanation of the allowable uses of ESA funds, the responsibilities of parents regarding ESA funds and the parents' participating students, and the department's duties regarding ESA funds and eligible students, participating students, and legacy students.

(d) The department shall post on the department's website a list of participating schools for each school year, the grades taught in each participating school, and any other information that the department determines may assist parents in selecting a participating school.

(e) The department shall strive to ensure that lower-income families and families with students listed under § 49-6-2604(e) are notified of the program and of the eligibility requirements to participate in the program.

(f) The department shall strive to ensure that parents of students with disabilities receive notice that participation in the program has the same effect as a parental refusal to consent to the receipt of services under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1414).

(g) The department shall adopt policies or procedures necessary for the administration of the program, including, but not limited to, procedures for establishing, or contracting for the establishment of, an anonymous online fraud reporting service and telephone hotline, for reporting fraudulent activity related to ESAs, and for conducting or contracting for random, quarterly, or annual review of accounts.

(h) The department may deduct six percent (6%) from the annual ESA award amount to cover the costs of overseeing the funds and administering the program.

(i) The department may contract with a nonprofit organization to administer some or all portions of the program.

49-6-2606. Annual administration of (TCAP) tests for math and English language arts — Report of graduation — Parental satisfaction survey — Annual report — Audit.

(a)(1) As a condition of participating in the program, participating students in grades three through eleven (3-11) must be annually administered the Tennessee comprehensive assessment program (TCAP) tests for math and English language arts, or successor tests authorized by the state board of education for math and English language arts.

(2) For participating students enrolled full-time in a participating school, the participating school shall annually administer the tests required in subdivision (a)(1) to participating students.

(3) For participating students seventeen (17) years of age or younger who are not enrolled full-time in a participating school, the participating student's parent must ensure that the participating student is annually administered the tests required in subdivision (a)(1). A participating student who has reached the age of eighteen (18) and who is not enrolled full-time in a participating school must ensure that the participating student is annually administered the tests required in subdivision (a)(1).

(b) The department shall ensure that:

(1) Parents report the participating student's graduation from high school to the department; and

(2) A parental satisfaction survey is created and annually disseminated to parents of participating students that requests the following information:

(A) Parental satisfaction with the program, including parental recommendations, comments, and concerns;

(B) Whether the parent terminated the participating student's participation in the program and the reason for termination;

(C) Methods to improve the effectiveness of the program, including parental recommendations for doing so; and

(D) The number of years the parent's participating student has participated in the program.

(c) In compliance with all state and federal student privacy laws, beginning at the conclusion of the first fiscal year in which the program enrolls participating students, the department shall produce an annual report that is accessible on the department's website with information about the program for the previous school year. The report must include:

(1) The number of students participating in the program;

(2) Participating student performance on annual assessments required by this section, aggregated by LEA and statewide;

(3) Aggregate graduation outcomes for participating students in grade twelve (12); and

(4) Results from the parental satisfaction survey required in subdivision (b)(2).

(d) In compliance with all state and federal student privacy laws, the program is subject to audit by the comptroller of the treasury or the comptroller's designee no later than the first fiscal year in which the program enrolls participating students and annually thereafter. The audit may include a sample of ESAs to evaluate the eligibility of the participating students, the funds deposited in the ESAs, and whether ESA funds are being used for authorized expenditures. The audit may also include an analysis of the

department's ESA monitoring process and the sufficiency of the department's fraud protection measures. The department shall cooperate fully with the comptroller of the treasury or the comptroller's designee in the performance of the audit. The audit must be made available to the members of the general assembly.

(e)(1) Data from the Tennessee comprehensive assessment program (TCAP) tests, or successor tests authorized by the state board of education, that are annually administered to participating students in grades three through eleven (3-11) pursuant to subsection (a) must be used to determine student achievement growth, as represented by the Tennessee Value-Added Assessment System (TVAAS), developed pursuant to chapter 1, part 6 of this title, for participating schools.

(2) The department shall, in compliance with all state and federal student privacy laws, make the TVAAS score of each participating school publicly available on the department's website.

49-6-2607. Use of ESA funds — Separate ESAs —Receipts for expenses — Requirements for participating schools.

(a) ESA funds shall only be used for the expenses listed in § 49-6-2603(a)(4).

(b) The department shall establish and maintain separate ESAs for each participating student and shall verify that the uses of ESA funds are permitted under § 49-6-2603(a)(4) and institute fraud protection measures. Use of ESA funds on tuition and fees, computer hardware or other technological devices, tutoring services, educational therapy services, summer education programs and specialized afterschool education programs, and any other expenses identified by the department must be pre-approved by the department. Pre-approval shall be requested by completing and submitting the department's pre-approval form. The department shall develop processes to effectuate this subsection (b).

(c) To document compliance with subsection (a), participating schools, providers, and eligible postsecondary institutions shall provide parents of participating students or participating students, as applicable, with a receipt for all expenses paid to the participating school, provider, or eligible postsecondary institution using ESA funds.

(d) A participating school, provider, or eligible postsecondary institution shall not, in any manner, refund, rebate, or share funds from an ESA with a parent of a participating student or a participating student. The department shall establish a process for funds to be returned to an ESA by a participating school, provider, or eligible postsecondary institution.

(e) To ensure the safety and equitable treatment of participating students, participating schools shall:

(1) Comply with all state and federal health and safety laws applicable to nonpublic schools;

(2) Certify that the participating school will not discriminate against participating students or applicants on the basis of race, color, or national origin;

(3) Comply with § 49-5-202;

(4) Conduct criminal background checks on employees; and

(5) Exclude from employment:

(A) Any person who is not permitted by state law to work in a nonpublic

school; and

(B) Any person who might reasonably pose a threat to the safety of students.

(f) An LEA shall provide a participating school that has admitted a participating student with a complete copy of the participating student's school records in the LEA's possession to the extent permitted by state and federal student privacy laws.

49-6-2608. Suspension or termination of participating school or provider — Suspension or termination of participating or legacy student — Restitution — Criminal prosecution.

(a)(1) The department may suspend or terminate a participating school's or provider's participation in the program if the department determines that the participating school or provider has failed to comply with the requirements of this part.

(2) The state board shall promulgate rules allowing the department to suspend or terminate a participating school's participation in the program due to low academic performance, as determined by the department.

(3) If the department suspends or terminates a participating school's or provider's participation under this subsection (a), then the department shall notify affected participating students and the parents of participating students of the decision. If a participating school's or provider's participation in the program is suspended or terminated, or if a participating school or provider withdraws from the program, then affected participating students remain eligible to participate in the program.

(b) The department may suspend or terminate a participating student from the program, or close a legacy student's ESA, if the department determines that the participating student's or legacy student's parent or the participating student or legacy student has failed to comply with the requirements of this part. If the department terminates a participating student's or legacy student's participation in the program, then the department shall close the participating student's or legacy student's ESA.

(c) A parent of a participating student, a participating student, a legacy student, or any other person who uses the funds deposited in a participating student's ESA for expenses that do not constitute one (1) or more of the qualified expenses listed in § 49-6-2603(a)(4), or a parent of a participating student, a participating student, a legacy student, or any other person who misrepresents the nature, receipts, or other evidence of any expenses paid by the parent of a participating student, by a participating student, or by a legacy student is liable for restitution to the department in an amount equal to the amount of such expenses.

(d) If a person knowingly uses ESA funds for expenses that do not constitute one (1) or more of the qualified expenses listed in § 49-6-2603(a)(4) with the intent to defraud the program or knowingly misrepresents the nature, receipts, or other evidence of any expenses paid with the intent to defraud the program, then the department may refer the matter to the appropriate enforcement authority for criminal prosecution.

(e) Any funds remaining in an ESA that is closed in accordance with subsection (b) must be returned to the state treasurer to be placed in the basic education program (BEP) account of the education trust fund of 1992 under

834

§§ 49-3-357 and 49-3-358.

(f) The state board shall promulgate rules to effectuate this section, including rules to establish a process for a participating school's, provider's, participating student's, or legacy student's suspension or termination from the program. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-6-2609. Participating school or provider not state agent — No expansion of regulatory authority.

(a) A participating school or provider is autonomous and not an agent of this state.

(b) The creation of the ESA program does not expand the regulatory authority of this state, the officers of this state, or an LEA to impose any additional regulation of participating schools or providers beyond the rules and regulations necessary to enforce the requirements of the program.

(c) This state gives participating schools and providers maximum freedom to provide for the educational needs of participating students without governmental control. Neither a participating school nor a provider is required to alter its creed, practices, admissions policies, or curriculum in order to accept participating students, other than as is necessary to comply with the requirements of the program.

49-6-2610. Promulgation of rules.

The state board is authorized to promulgate rules to effectuate the purposes of this part. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

49-6-2611. Intent of part — Report by office of research and education accountability — Effect of invalidity.

(a)(1) The general assembly recognizes this state's legitimate interest in the continual improvement of all LEAs and particularly the LEAs that have consistently had the lowest performing schools on a historical basis. Accordingly, it is the intent of this part to establish a pilot program that provides funding for access to additional educational options to students who reside in LEAs that have consistently and historically had the lowest performing schools.

(2)(A) On January 1 following the third fiscal year in which the program enrolls participating students, and every January 1 thereafter, the office of research and education accountability (OREA), in the office of the comptroller of the treasury, shall provide a report to the general assembly to assist the general assembly in evaluating the efficacy of the program. The report must include, in compliance with all state and federal student privacy laws:

(i) The information contained in the department's annual report prepared pursuant to § 49-6-2606(c);

(ii) Academic performance indicators for participating students in the program including, but not limited to, data generated from the tests administered to participating students pursuant to § 49-6-2606(a)(1);

(iii) Audit reports prepared by the comptroller of the treasury or the

comptroller's designee pursuant to § 49-6-2606(d);

(iv) A list of the LEAs that meet the requirements of § 49-6-2602(3)(C)(i) for the most recent year in which the department collected such information; and

(v) Recommendations for legislative action if, based upon the list provided pursuant to subdivision (a)(2)(A)(iv), the LEAs with students who are eligible to participate in the program under § 49-6-2602(3)(C)(i) is no longer consistent with the intent described in subdivision (a)(1).

(B) The department shall assist the OREA in its preparation of the report required under this subdivision (a)(2).

(C) The OREA's initial report to the general assembly under this subdivision (a)(2) must include the information outlined in subdivisions (a)(2)(A)(i)-(iii) for each of the three (3) preceding school years in which the program enrolled participating students.

(b) If any provision of this part or this part's application to any person or circumstance is held invalid, then the invalidity must not affect other provisions or applications of this part that can be given effect without the invalid provision or application, and to that end the provisions of this part are severable.

(c) Notwithstanding subsection (b), if any provision of this part is held invalid, then the invalidity shall not expand the application of this part to eligible students other than those identified in § 49-6-2602(3).

(d) A local board of education does not have authority to assert a cause of action, intervene in any cause of action, or provide funding for any cause of action challenging the legality of this part.

49-6-2612. State or local public benefit.

An education savings account is a state or local public benefit under § 4-58-102.

49-6-2701. Threat assessment team.

(a) Each LEA may adopt a policy to establish a threat assessment team within the LEA. The purpose of the threat assessment team is to develop comprehensive intervention-based approaches to prevent violence, manage reports of potential threats, and create a system that fosters a safe, supportive, and effective school environment.

(b) The threat assessment team must include LEA personnel and law enforcement personnel. An LEA's threat assessment team may include juvenile services personnel, a representative of the local district attorney's office, a representative of the department of children's services, and mental health service providers.

(c) A threat assessment team shall:

(1) Obtain training from local law enforcement or mental health service providers on how to assess individuals exhibiting threatening or disruptive behavior and develop interventions for individuals exhibiting such behavior;

(2) Conduct threat assessments based on dangerous or threatening behavior of individuals in the school, home, or community setting;

(3) Provide guidance to students, faculty, staff, and others in the LEA on how to recognize, address, and report threatening or dangerous behavior;

(4) Establish procedures that outline the circumstances in which LEA

personnel are required to report threatening or dangerous behavior;

(5) Establish procedures for students, faculty, and community members to anonymously report threatening or dangerous behavior and specify to whom the behavior should be reported;

(6) Provide guidance and best practices for the intervention and prevention of violence;

(7) Establish procedures for the:

(A) Assessment of individuals exhibiting behavior that may present a threat to the health or safety of the individual or others;

(B) Development of appropriate means of intervention, diversion, and de-escalation of threats; and

(C) Development of appropriate courses of actions that should be taken in the event threatening or dangerous behavior is reported, including, but not limited to, referrals to community services or healthcare providers, notification of parents or guardians, if appropriate, or notification of law enforcement and emergency medical services;

(8) Refer individuals to support services; and

(9) Provide post-incident assessments and evaluate the effectiveness and response of the LEA to incidents.

(d) The threat assessment team shall document all behaviors and incidents deemed to pose a risk to school safety or that result in intervention and shall provide the information to the LEA. All information shall be documented in accordance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g), § 10-7-504, and all other relevant state and federal privacy laws. The LEA must consider the information when reviewing and developing a building-level school safety plan.

(e) The threat assessment team shall report threat assessment team activities to the local board of education and the director of schools on a regular basis. The report must include quantitative data on threat assessment team activities, including post-incident assessments, and must provide information on the effectiveness of the team's response to incidents deemed to pose a risk to school safety. The report must comply with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g), § 10-7-504, and all other relevant state and federal privacy laws.

(f) Documents produced or obtained pursuant to this section are not open for public inspection. Threat assessment team meetings do not constitute an open meeting as defined by § 8-44-102.

49-6-2702. Request for law enforcement or court records upon determination that individual poses threat or exhibits significantly disruptive behavior or need for assistance — Use of information — Disclosure of student's education record.

(a)(1) Upon a preliminary determination by the threat assessment team that an individual poses a threat of violence or exhibits significantly disruptive behavior or need for assistance, the threat assessment team may:

(A) Request law enforcement information or records, which may be provided as deemed appropriate by the law enforcement agency in accordance with state and federal privacy laws; and

(B) Request court files and records, which may be provided as deemed appropriate by the juvenile court pursuant to § 37-1-153.

(2) A member of a threat assessment team shall not disclose any court files or records obtained pursuant to this section or otherwise use any record of an individual beyond the purpose for which the disclosure was made. This section does not require a law enforcement agency or juvenile court to produce a record or limit a law enforcement agency's or juvenile court's discretion.

(3) Law enforcement and juvenile justice information obtained pursuant to this part cannot be used:

(A) To discipline or exclude a child from educational services unless the information is provided to a school pursuant to § 37-1-131(a)(2)(B); or

(B) By a juvenile court system to assess legal consequences against a person for any action, unless the information is brought before the juvenile court pursuant to a properly filed petition and addressed through the proper court proceedings in accordance with title 37, chapter 1.

(b) An LEA may disclose information contained in a student's education record to appropriate parties, including members of the threat assessment team and the members' respective agencies, in the event of an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. Any disclosure under this subsection (b) must comply with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g), § 10-7-504, the Data Accessibility, Transparency and Accountability Act, and all other relevant state and federal privacy laws. This section does not limit an LEA's ability to disclose information to the fullest extent otherwise permitted by state or federal law.

(c) Agencies, entities, and individuals subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U.S.C. § 1320d et seq.) may disclose information contained in a medical record to the threat assessment team if the agency, entity, or individual believes that the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. Any disclosure under this subsection (c) must comply with HIPAA. Nothing in this subsection (c) limits an agency's, entity's or individual's ability to disclose information to the fullest extent otherwise permitted by state or federal law.

(d) The threat assessment team shall certify to any agency or individual providing confidential information that the information will not be disclosed to any other party, except as provided by law. The agency providing the information to the threat assessment team shall retain ownership of the information provided, and such information remains subject to any confidentiality laws applicable to the agency. The provision of information to the threat assessment team does not waive any applicable confidentiality standards. Confidential information may be shared with the threat assessment team only as necessary to protect the safety of the individual or others. Nothing in this part compels an agency or individual to share records or information unless required by law.

49-6-2703. Immunity of threat assessment team.

A threat assessment team and individual members of a threat assessment team, and any person providing information to a threat assessment team, are not liable in any action for damages or for other relief for any lawful actions taken in accordance with this part. A threat assessment team and individual members of a threat assessment team are immune from liability arising from:

(1) The provision of information to a threat assessment team, if the information is provided to the threat assessment team in good faith, without malice, and on the basis of facts known or reasonably believed to exist; or

(2) Any decisions, opinions, actions, and proceedings rendered, entered, or acted upon by a threat assessment team within the scope or function of the duties of the threat assessment team if made in good faith, without malice, and on the basis of facts known or reasonably believed to exist.

49-6-3004. School term.

(a) Each public school system shall maintain a term of no less than two hundred (200) days, divided as follows:

(1) One hundred eighty (180) days for classroom instruction;

(2) Ten (10) days for vacation with pay for a two hundred-day term, eleven (11) days for vacation with pay for a two hundred twenty-day term, and twelve (12) days for vacation with pay for a two hundred forty-day term;

(3) Five (5) days for in-service education;

(4) One (1) day for teacher-parent conferences;

(5) Four (4) other days as designated by the local board of education upon the recommendation of the director of schools; and

(6) In the event of a natural disaster or serious outbreaks of illness affecting or endangering students or staff during a school year, the commissioner of education may waive for that school year the requirement under subdivision (a)(1) of one hundred eighty (180) days of classroom instruction, if a request is submitted to the commissioner by the director of schools. The waiver request may be for the entire LEA or for individual schools within the LEA.

(b) Vacation days shall be in accordance with policies recommended by the local director of schools and adopted by the local board of education.

(c)(1)(A) In-service days shall be used according to a plan recommended by the local director of schools in accordance with this section and other applicable statutes and adopted by the local board of education, a copy of which plan shall be filed with the commissioner of education on or before June 1 of the preceding school year and approved by the commissioner. The commissioner shall require that in-service training include the teaching of the components of the Juvenile Offender Act, compiled in title 55, chapter 10, part 7, to all teachers and principals in grades seven through twelve (7-12). The commissioner shall require that in-service training include at least two (2) hours of suicide prevention education for all teachers and principals each school year. This education may be accomplished through self-review of suitable suicide prevention materials. The commissioner shall also encourage the use of two (2) of the in-service training days to provide training to teachers, principals and other school personnel, and, to the extent possible, school board members, on issues of prevention and intervention strategies for students in the area of behavioral/emotional disorders. The training shall place an emphasis on understanding the warning signs of early-onset mental illness in children and adolescents and may be conducted by school counseling personnel, such as psychologists, social workers, guidance counselors or health faculty, by mental health clinicians or by approved personnel from mental health advocacy organizations using curricula approved by the departments of

education and mental health and substance abuse services. In addition to other training and resources authorized by this chapter, the department of education shall, within available resources, collaborate with institutions of higher education to formally address dyslexia and similar reading disorders by providing kindergarten through twelfth grade (K-12) educators and teachers web-based or in-person training providing effective instruction for teaching students with dyslexia using appropriate scientific research and brain-based multisensory intervention methods and strategies.

(B) Beginning with the 2019-2020 school year, each local board of education shall require that each teacher employed by the board receive a one-time in-service training on the detection, intervention, prevention, and treatment of human trafficking in which the victim is a child, which must be accomplished through the viewing of a video recording approved by the LEA. The plan recommended by the director of schools and adopted by the local board of education under subdivision (c)(1)(A) must specify the amount of in-service credit that a teacher will receive for viewing the video required in this subdivision (c)(1)(B). The local board of education shall maintain a record of each teacher who completes the in-service training required in this subdivision (c)(1)(B). This subdivision (c)(1)(B) does not excuse an LEA from having to comply with the in-service training and reporting requirements of § 37-1-408.

(2) The needs of apprentice teachers shall be given priority in the planning of in-service activities. Apprentice teachers shall be assisted by supervising teachers in the development of competencies required by the local board of education.

(3) The plan shall also give priority to staff development activities. Staff development activities shall include an assessment of teacher and administrator evaluations made previously by the local school system. Career level III teachers and career level III supervisors shall be assigned to aid those teachers seeking to improve teaching competencies.

(d) The state board of education shall develop a policy governing professional development activities during in-service education within the guidelines adopted by the general assembly.

(e)(1) A local board of education or private or church-related school that exceeds the full six and one half (6½) hours instructional time required by law by one half (½) hour daily for the full academic year shall be credited with the additional instructional time. The excess instructional time shall be accumulated in amounts up to, but not exceeding, thirteen (13) instructional days each year, and applied toward meeting instructional time requirements missed due to dangerous or extreme weather conditions. Upon approval by the commissioner, the excess instructional time may be used in case of natural disaster, serious outbreaks of illness affecting or endangering students or staff or dangerous structural or environmental conditions rendering a school unsafe for use. This excess accumulated instructional time may be used for early student dismissal for faculty professional development under rules promulgated by the board of education. Such time may be used in whole day (six and one-half (6½) hour) increments and may be used for faculty professional development, individualized education program (IEP) team meetings, school-wide or system-wide instructional planning meetings, parent-teacher conferences, or other similar meetings.

The board shall consult with the commissioner in developing the rules. All proposals for use of excess time for professional development and instructional planning meetings shall be approved by the commissioner. Additionally, the commissioner is authorized to approve directly proportional variations from the one-half-hour extension of the school day and the corresponding accumulation of thirteen (13) days of adjustments to the instructional time requirements.

(2) Any unused accumulated days for excess instructional time shall not carry over to a school year other than the year in which the time was accumulated.

(f) Beginning with the 2010-2011 school year and every year thereafter, LEAs shall commence the school year no earlier than August 1 unless the LEA's board of education votes by a majority of its membership to establish a year-round or alternative calendar for all or any of the schools within its jurisdiction in accordance with department of education attendance policies.

(g) The length of term selected by a local board, and the length of the school day corresponding to that term, shall not affect either the amount or timing of payments made to the LEA under the basic education program (BEP) or otherwise, if the LEA operates for the full chosen term. Equally, the length of term and the length of day shall not affect the compensation of any teacher employed for the length of that term.

(h) Any LEA operating a virtual school or virtual education program shall make available the same length of time for learning opportunities per academic year as required under this section to any student participating in its program. The LEA shall, however, also permit a student to move at the student's own pace. The student shall demonstrate mastery, competency and completion of a course or subject area to be given credit for the course or subject area. If a student successfully completes a course or grade level more than thirty (30) days before the end of the term, the student shall begin work in the next appropriate course or grade. The academic program shall continue until the end of the academic year.

49-6-3005. Children excused from compulsory attendance.

(a) The following classes of children between six (6) and seventeen (17) years of age, both inclusive, shall be temporarily excused from complying with this part, the local board of education to be sole judge in all such cases involving children who are enrolled in a public school and, as to children enrolled in a nonpublic school, as defined by § 49-6-3001(c)(3), the director of schools of the school to be the sole judge in all such cases:

(1) Children mentally or physically incapacitated to perform school duties, such disability to be attested by a duly licensed physician in all cases;

(2) Children who have completed high school and hold a high school diploma;

(3) Children temporarily excused from attendance in school under rules and regulations promulgated by the state board of education, which rules and regulations shall not be in conflict with § 50-5-103 or any other law governing child labor in this state;

(4) Children six (6) years of age or under whose parent or guardian have filed a notice of intent to conduct a home school as provided by § 49-6-3001 or who are conducting a home school as provided by § 49-6-3050; and

(5) Children who have attained their seventeenth birthday and whose continued compulsory attendance, in the opinion of the board of education in charge of the school to which the children belong and are enrolled, results in detriment to good order and discipline and to the instruction of other students and is not of substantial benefit to the children.

(b) In all cases described in subsection (a), the board shall first obtain the recommendation in writing from the director of schools of the system and the principal of the school to which the child or children belong.

(c) No child who is refused attendance in a school nearer to the child's residence having equivalent grade levels and curriculum shall be required to attend public or nonpublic school as provided in § 49-6-3001.

(d) In addition to the categories of children specified in subsection (a), the local board of education may excuse children from attendance in accordance with guidelines developed by the state board of education for this purpose.

49-6-3015. [Repealed.]

49-6-3017. Minors withdrawn from secondary school — Denial of motor vehicle license or permit.

(a) For purposes of this section:

(1) Suspension or expulsion from school or confinement in a correctional institution is not a "circumstance beyond the control of the person";

(2) "Satisfactory academic progress" means making a passing grade in at least three (3) full unit subjects or their equivalency at the conclusion of any grading period; and

(3) "Withdrawal" means more than ten (10) consecutive or fifteen (15) days total unexcused absences during a single semester.

(b) In accordance with title 55, chapter 50, the department of safety shall deny a license or instruction permit for the operation of a motor vehicle to any person under eighteen (18) years of age who does not at the time of application for a driver license present a diploma or other certificate of graduation issued to the person from a secondary high school of this state or any other state, or documentation that the person is:

(1) Enrolled and making satisfactory progress in a course leading to a general educational development certificate (GED®) from a state-approved institution or organization, or has obtained a GED®;

(2) Enrolled and making satisfactory academic progress in a secondary school of this state or any other state; or

(3) Excused from such requirement due to circumstances beyond the applicant's control.

(c) The attendance teacher or director of schools shall provide documentation of enrollment status on a form approved by the department of education to any student fifteen (15) years of age or older upon request, who is properly enrolled in a school under the jurisdiction of the official for presentation to the department of safety on application for or reinstatement of an instruction permit or license to operate a motor vehicle. Whenever a student fifteen (15) years of age or older withdraws from school, except as provided in subsection (d), the attendance teacher or director of schools shall notify the department of safety of such withdrawal. Within five (5) days of receipt of the notice, the department shall send notice to the licensee that the license will be suspended

under title 55, chapter 50, on the thirtieth day following the date the notice was sent, unless documentation of compliance with this section is received by the department before that time. After having withdrawn from school for the first time for the purpose of this section, a student may not be considered as being in compliance with this section until the student returns to school and makes satisfactory academic progress or attains eighteen (18) years of age. For second or subsequent withdrawals, a student shall have all driving privileges suspended until the student attains eighteen (18) years of age. When a student licensed to operate a motor vehicle is enrolled in a secondary school and fails to maintain satisfactory academic progress based on end of semester grading, the attendance teacher or director of schools shall follow the procedure set out in this subsection (c) to notify the department of safety. A student who fails to maintain satisfactory academic progress based on end of semester grading may not be considered as being in compliance with this section until such student makes a passing grade in at least three (3) full unit subjects or their equivalency at the conclusion of any subsequent grading period.

(d) Whenever the withdrawal from school of the student, the student's failure to enroll in a course leading to a GED® or high school diploma or the student's failure to maintain satisfactory academic progress based on end of semester grading is beyond the control of the student, or is for the purpose of transfer to another school as confirmed in writing by the student's parent or guardian, no notice shall be sent to the department to suspend the student's motor vehicle driver license. If the student is applying for a license, the attendance teacher or director of schools shall provide the student with documentation to present to the department of safety to excuse the student from this section. The school district director of schools, or the appropriate school official of any private secondary school, with the assistance of the attendance teacher and any other staff or school personnel, shall be the sole judge of whether withdrawal or the student's failure to maintain satisfactory academic progress based on end of semester grading is due to circumstances beyond the control of the person.

(e) A copy of the notice sent to the department of safety by the attendance teacher or the director of schools upon failure of a student to maintain satisfactory academic progress shall also be mailed to that student's parents or guardian.

(f) Notwithstanding any provision of this section to the contrary, any student under eighteen (18) years of age enrolled in a course leading to a GED® who has more than ten (10) consecutive or fifteen (15) days total unexcused absences in a semester shall not be considered as making satisfactory academic progress and the student's motor vehicle driver license shall be suspended; or if the student does not have a motor vehicle driver license, the student shall be ineligible to obtain a motor vehicle driver license until the student reaches eighteen (18) years of age. The attendance teacher, director of schools or director of a GED® program shall notify the department of safety whenever any student under eighteen (18) years of age enrolled in a course leading to a GED® has more than ten (10) consecutive or fifteen (15) days total unexcused absences in a semester.

(g) By September 1 of each year, the department of safety shall report to the education committee of the senate and the education committee of the house of representatives the number of students whose driver licenses were suspended in accordance with this section and title 55, chapter 50 during the school year

immediately preceding the report date. The department of safety shall also report the number of students whose licenses were reinstated during such school year after such students had their licenses suspended and the total number of licenses granted to students during the school year.

49-6-3023. Rules to ensure incarcerated students provided educational services.

(a) The department of education shall develop rules to be adopted by the state board of education to ensure students incarcerated in detention centers licensed by the department of children's services under § 37-5-502 are provided educational services by an LEA serving the county in which the detention center is located.

(b) The rules developed under this section shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and shall include, at a minimum, procedures for:

(1) The funding in an amount equal to the per pupil state and local funds received by the LEA in which the student was enrolled at the time of incarceration on a prorated daily basis for the length of the student's incarceration to be used for the student's education;

(2) The prompt transfer of the incarcerated student's educational records, including transcripts, from the LEA in which the student was enrolled at the time of incarceration to the LEA in which the detention center is located; and

(3) Providing instruction to students incarcerated in detention centers for a minimum of four (4) hours each instructional day.

(c) The department of education shall monitor the educational services provided to students incarcerated in detention centers.

(d) The department of children's services shall ensure that detention centers licensed under § 37-5-502 comply with any rules adopted by the state board of education pursuant to this section.

49-6-3025. Unlawful withdrawal, transfer, or alteration of enrollment in school with intent to hinder active child abuse or child neglect investigation.

(a) As used in this section, "investigating agency" means the department of children's services or a law enforcement agency that is conducting a child abuse or child neglect investigation.

(b) A parent, guardian, or other legal custodian required to cause a child to attend school in accordance with § 49-6-3001 shall not withdraw, transfer, or in any way alter a child's current enrollment in school with intent to hinder an active child abuse or child neglect investigation.

(c) It is a defense to prosecution for an offense under this section that the parent, guardian, or legal custodian received written confirmation from the investigating agency that the investigating agency has been notified of the child's change in enrollment and has confirmed that the change in enrollment would not hinder the agency's investigation.

(d) An investigating agency conducting a child abuse or child neglect investigation that receives a written notification of intent to withdraw, transfer, or alter a child's enrollment in school must respond to the request within forty-eight (48) hours.

844

(e) A violation of subsection (b) is a Class A misdemeanor.

(f) A violation of subsection (b) is a Class E felony if the parent, guardian, or legal custodian takes the child out of state.

49-6-3051. Parental or guardian notice to school of child's criminal offenses — List of goals — Confidentiality — Violations and penalties.

(a) Notwithstanding any law to the contrary, if a student has at any time been adjudicated delinquent for any offense listed in subsection (b), the parents, guardians or legal custodians, including the department of children's services acting in any capacity and a school administrator of any school having previously received the same or similar notice from the juvenile court or another source, shall provide to a school principal, or a principal's designee, the abstract provided under § 37-1-153 or § 37-1-154 or other similar written information when any such student:

- (1) Initially enrolls in an LEA;
- (2) Resumes school attendance after suspension, expulsion or adjudication of delinquency; or
- (3) Changes schools within this state.

(b) The parents, guardians, or legal custodians, including the department of children's services acting in any capacity, shall provide notification as required by subsection (a) if the student has been adjudicated delinquent:

(1) In this state for any of the following offenses, or in another state for equivalent offenses as determined by the elements of the offense:

- (A) First degree murder, as defined in § 39-13-202;
- (B) Second degree murder, as defined in § 39-13-210;
- (C) Rape, as defined in § 39-13-503;
- (D) Aggravated rape, as defined in § 39-13-502;
- (E) Rape of a child, as defined in § 39-13-522;
- (F) Aggravated rape of a child, as defined in § 39-13-531;
- (G) Aggravated robbery, as defined in § 39-13-402;
- (H) Especially aggravated robbery, as defined in § 39-13-403;
- (I) Kidnapping, as defined in § 39-13-303;
- (J) Aggravated kidnapping, as defined in § 39-13-304;
- (K) Especially aggravated kidnapping, as defined in § 39-13-305;
- (L) Aggravated assault, as defined in § 39-13-102;
- (M) Felony reckless endangerment pursuant to § 39-13-103; or
- (N) Aggravated sexual battery, as defined in § 39-13-504; or

(2) In this state for any of the following offenses:

- (A) Voluntary manslaughter, as defined in § 39-13-211;
- (B) Criminally negligent homicide, as defined in § 39-13-212;
- (C) Sexual battery by an authority figure, as defined in § 39-13-527;
- (D) Statutory rape by an authority figure, as defined in § 39-13-532;
- (E) Prohibited weapon, as defined in § 39-17-1302;
- (F) Unlawful carrying or possession of a firearm, as defined in § 39-17-1307;
- (G) Carrying weapons on school property, as defined in § 39-17-1309;
- (H) Carrying weapons on public parks, playgrounds, civic centers, and other public recreational buildings and grounds, as defined in § 39-17-1311;

- (I) Handgun possession, as defined in § 39-17-1319;
- (J) Providing handguns to juveniles, as defined in § 39-17-1320; or
- (K) Any violation of § 39-17-417 that constitutes a Class A or Class B felony; or

(3) An offense not listed in this subsection (b) for which a court has ordered school notification based on the circumstances surrounding the offense.

(c) When the principal or the principal's designee is notified of the student's adjudication pursuant to subsection (a), the principal or the principal's designee may convene a meeting to develop a plan to set out a list of goals to provide the child an opportunity to succeed in school and provide for school safety, a schedule for completion of the goals and the personnel who will be responsible for working with the child to complete the goals.

(d) The abstract and information shall be shared only with the employees of the school having responsibility for classroom instruction of the child and the school counselor, social worker or psychologist who is involved in developing a plan for the child while in the school, and with the school resource officer, and any other person notified pursuant to this section. The information is otherwise confidential and shall not be shared by school personnel with any other person or agency, except as may otherwise be required by law. The abstract or other similar information provided pursuant to subsection (a) and the plan shall not become a part of the child's student record.

(e) Notwithstanding any other state law to the contrary, the department of children's services shall develop a written policy consistent with federal law detailing the information to be shared by the department with the school for children in its legal custody when notification is required.

(f) It is an offense for any school personnel to knowingly share information provided pursuant to subsection (a) with any person other than those listed in subsection (d). A violation of this subsection (f) is a Class C misdemeanor, punishable by a fine only.

(g) It is an offense for a parent or guardian to knowingly fail to provide notification as required by subsection (a). A violation of this subsection (g) is a Class C misdemeanor, punishable by a fine only. For purposes of this subsection (g), parent or legal guardian does not include the department of children's services.

(h) If it becomes apparent that any employee of the department of children's services knowingly failed to notify the school as required by subsection (a), the commissioner of children's services shall be notified and take appropriate action against the employee.

49-6-3101. Enrollment of dependent child of service member.

(a) As used in this section:

(1) "Dependent child" means a child of school age who is the natural child, stepchild, or adopted child of a service member; and

(2) "Service member" means a member of the United States armed forces who is engaged in active military service.

(b) A board of education shall allow a student who does not reside within the boundaries of the school district to enroll in a public school within the school district if:

(1) The student is the dependent child of a service member who is being relocated to the State of Tennessee on military orders and will, upon

846

relocation, be a resident of the school district, but will not be a resident of the school district when the school district conducts an open enrollment period; and

(2) The service member provides the school district with documentation evidencing that the student is the dependent child of the service member and that the service member is being relocated to the State of Tennessee on military orders and will, upon relocation, be a resident of the school district.

(c) Each board of education shall adopt policies to establish a reasonable period of time within which a student permitted to enroll and attend a public school under this section must provide proof of residency within the school district.

49-6-3106. Direct advancement from kindergarten to second grade.

A local board of education may approve a procedure for determining the competency of students who have attended kindergarten to advance directly to grade two (2).

49-6-3401. Suspension of students — Expulsion of students — Exception for self-defense.

(a) Any principal, principal-teacher or assistant principal of any public school in this state is authorized to suspend a pupil from attendance at the school, including its sponsored activities, or from riding a school bus, for good and sufficient reasons. Good and sufficient reasons for suspension include, but are not limited to:

- (1) Willful and persistent violation of the rules of the school;
- (2) Immoral or disreputable conduct or vulgar or profane language;
- (3) Violence or threatened violence against the person of any personnel attending or assigned to any public school;
- (4) Willful or malicious damage to real or personal property of the school, or the property of any person attending or assigned to the school;
- (5) Inciting, advising or counseling of others to engage in any of the acts enumerated in subdivisions (a)(1)-(4);
- (6) Marking, defacing or destroying school property;
- (7) Possession of a pistol, gun or firearm on school property;
- (8) Possession of a knife and other weapons, as defined in § 39-17-1301 on school property;
- (9) Assaulting a principal, teacher, school bus driver or other school personnel with vulgar, obscene or threatening language;
- (10) Unlawful use or possession of barbital or legend drugs, as defined in § 53-10-101;
- (11) One (1) or more students initiating a physical attack on an individual student on school property or at a school activity, including travel to and from school or a school activity;
- (12) Making a threat, including a false report, to use a bomb, dynamite, any other deadly explosive or destructive device, including chemical weapons, on school property or at a school sponsored event;
- (13) Any other conduct prejudicial to good order or discipline in any public school; and

(14) Off campus criminal behavior that results in the student being legally charged with an offense that would be classified as a felony if the

student was charged as an adult or if adjudicated delinquent for an offense that would be classified as a felony if the student was an adult, or if the student was convicted of a felony, and the student's continued presence in school poses a danger to persons or property or disrupts the educational process. Notwithstanding § 37-1-131 or any other law to the contrary, the principal of the school in which the student is enrolled and the director of schools shall determine the appropriate educational assignment for the student released for readmission.

(b)(1) Any principal, principal-teacher or assistant principal may suspend any pupil from attendance at a specific class, classes or school-sponsored activity without suspending the pupil from attendance at school pursuant to an in-school suspension policy adopted by the local board of education. Good and sufficient reasons for in-school suspension include, but are not limited to, behavior:

- (A) That adversely affects the safety and well-being of other pupils;
- (B) That disrupts a class or school sponsored activity; or
- (C) Prejudicial to good order and discipline occurring in class, during school-sponsored activities or on the school campus.

(2) In-school suspension policies shall provide that pupils given an in-school suspension in excess of one (1) day from classes shall attend either special classes attended only by students guilty of misconduct or be placed in an isolated area appropriate for study. Students given in-school suspension shall be required to complete academic requirements.

(c)(1) Except in an emergency, no principal, principal-teacher or assistant principal shall suspend any student until that student has been advised of the nature of the student's misconduct, questioned about it and allowed to give an explanation.

(2) Upon suspension of any student other than for in-school suspension of one (1) day or less, the principal shall, within twenty-four (24) hours, notify the parent or guardian and the director of schools or the director of schools' designee of:

(A) The suspension, which shall be for a period of no more than ten (10) days;

(B) The cause for the suspension; and

(C) The conditions for readmission, which may include, at the request of either party, a meeting of the parent or guardian, student and principal.

(3) If the suspension is for more than five (5) days, the principal shall develop and implement a plan for improving the behavior, which shall be made available for review by the director of schools upon request.

(4)(A) If, at the time of the suspension, the principal, principal-teacher or assistant principal determines that an offense has been committed that would justify a suspension for more than ten (10) days, the person may suspend a student unconditionally for a specified period of time or upon such terms and conditions as are deemed reasonable.

(B) The principal, principal-teacher or assistant principal shall immediately give written or actual notice to the parent or guardian and the student of the right to appeal the decision to suspend for more than ten (10) days. All appeals must be filed, orally or in writing, within five (5) days after receipt of the notice and may be filed by the parent or guardian, the student or any person holding a teaching license who is employed by the school system if requested by the student.

(C) The appeal from this decision shall be to the board of education or to a disciplinary hearing authority appointed by the board. The disciplinary hearing authority, if appointed, shall consist of at least one (1) licensed employee of the LEA, but no more than the number of members of the local board.

(D) The hearing shall be held no later than ten (10) days after the beginning of the suspension. The local board of education or the disciplinary hearing authority shall give written notice of the time and place of the hearing to the parent or guardian, the student and the school official designated in subdivision (c)(4)(A) who ordered the suspension. Notice shall also be given to the LEA employee referred to in subdivision (c)(4)(B) who requests a hearing on behalf of a suspended student.

(5) After the hearing, the board of education or the disciplinary hearing authority may affirm the decision of the principal, order removal of the suspension unconditionally or upon such terms and conditions as it deems reasonable, assign the student to an alternative program or night school or suspend the student for a specified period of time.

(6) If the decision is determined by a disciplinary hearing authority, a written record of the proceedings, including a summary of the facts and the reasons supporting the decision, shall be made by the disciplinary hearing authority. The student, principal, principal-teacher or assistant principal may, within five (5) days of the decision, request review by the board of education; provided, that local school board policy may require an appeal to the director of schools prior to a request for review to the board. Absent a timely appeal, the decision shall be final. The board of education, based upon a review of the record, may grant or deny a request for a board hearing and may affirm or overturn the decision of the hearing authority with or without a hearing before the board; provided, that the board may not impose a more severe penalty than that imposed by the hearing authority without first providing an opportunity for a hearing before the board. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher or assistant principal, then, notwithstanding any provision of the open meetings laws compiled in title 8, chapter 44, or other law to the contrary, the hearing shall be closed to the public, unless the student or student's parent or guardian requests in writing within five (5) days after receipt of written notice of the hearing that the hearing be conducted as an open meeting. If the board conducts a hearing as a result of a request for review by a student, principal, principal-teacher, or assistant principal that is closed to the public, then the board shall not conduct any business, discuss any subject or take a vote on any matter other than the appeal to be heard. Nothing in this subdivision (c)(6) shall act to exclude the department of children's services from the disciplinary hearings when the department is exercising its obligations under § 37-1-140. The action of the board of education shall be final.

(d) In the event the suspension occurs during the last ten (10) days of any term or semester, the pupil may be permitted to take final examinations or submit required work that is necessary to complete the course of instruction for that semester, subject to the action of the principal, or the final action of the board of education upon any appeal from an order of a principal continuing a suspension.

(e) Students under in-school suspension shall be recorded as constituting a part of the public school attendance in the same manner as students who

attend regular classes.

(f) Nothing in this title shall require an LEA to enroll a student who is under suspension or expelled in an LEA either in Tennessee or another state. The director of schools for the school system in which the suspended student requests enrollment shall make a recommendation to the local board of education to approve or deny the request. The recommendation shall occur only after investigation of the facts surrounding the suspension from the former school system. If the recommendation is to deny admission and if the local board approves the director of schools' recommendation, the director of schools shall, on behalf of the board of education, notify the commissioner of the decision. Nothing in this subsection (f) shall affect children in state custody or their enrollment in any LEA. Any LEA that accepts enrollment of a student from another LEA may dismiss the student if it is determined subsequent to enrollment that the student had been suspended or expelled by the other LEA.

(g)(1) It is the legislative intent that if a rule or policy is designated as a zero tolerance policy, then violations of that rule or policy must not be tolerated and violators shall receive certain, swift, and proportionate punishment.

(2) Notwithstanding other provisions of this section or any other law, a student shall be considered in violation of a zero tolerance offense and shall be expelled for a period of not less than one (1) calendar year, except that the director of schools may modify this expulsion on a case-by-case basis for the following:

(A) A student brings to school or is in unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921;

(B) A student commits aggravated assault as defined in § 39-13-102 or commits an assault that results in bodily injury as defined in § 39-13-101(a)(1) upon any teacher, principal, administrator, any other employee of an LEA, or a school resource officer; or

(C) A student is in unlawful possession of any drug, including any controlled substance, as defined in §§ 39-17-402 — 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101, on school grounds or at a school-sponsored event.

(3) Nothing in this section prohibits the assignment of students who are subject to expulsion from school to an alternative school.

(4) Disciplinary policies and procedures for all other student offenses, including terms of suspensions and expulsions, must be determined by local board of education policy.

(5) For purposes of this subsection (g):

(A) "Expelled" means removal from the student's regular school program at the location where the violation occurred or removal from school attendance altogether, as determined by the school official; and

(B) "Zero tolerance offense" means an offense committed by a student requiring the student to be expelled from school for at least one (1) calendar year that can only be modified on a case-by-case basis by the director of schools or the head of a charter school.

(h) The commissioner of education shall report on an annual basis to the education committee of the senate and the education committee of the house of representatives regarding disciplinary actions in Tennessee schools. The reports must include the reason for the disciplinary action, the number of students suspended or expelled, the number of students who committed zero tolerance offenses pursuant to subsection (g), the number of students who have

been placed in an alternative educational setting, and the number of students suspended, expelled, or otherwise dismissed from an alternative school. Data must be sorted by school as well as by various demographic factors, including grade, race, and sex.

(i) Notwithstanding subsection (a) or (b) or any other law to the contrary, if a pupil is determined, via a fair and thorough investigation made by the principal or the principal's appointed representative, to have acted in self-defense under a reasonable belief that the student, or another to whom the student was coming to the defense of, may have been facing the threat of imminent danger of death or serious bodily injury, which the student honestly believed to be real at that time, then, at the principal's recommendation, the student may not face any disciplinary action.

49-6-3402. Alternative schools for suspended or expelled students — Mandated attendance.

(a) Local boards of education may establish alternative schools for students in grades one through six (1-6) who have been suspended or expelled from the regular school program. At least one (1) alternative school or alternative program shall be established and available for students in grades seven through twelve (7-12) who have been suspended or expelled as provided in this part. In providing alternative schools, any two (2) or more boards may join together and establish a school attended by students of any such school system; furthermore, any board may, by mutually acceptable agreement with another board, send its suspended or expelled students to any alternative school already in operation.

(b) Alternative schools and alternative programs shall be operated pursuant to rules of the state board of education pertaining to them, and instruction shall proceed as nearly as practicable in accordance with the instructional programs at the student's home school. All course work completed and credits earned in alternative schools or alternative programs shall be transferred to and recorded in the student's home school, which shall grant credit earned and progress thereon as if earned in the home school.

(c) Students in grades seven through twelve (7-12) who have been suspended or expelled from the regular school program must be assigned to an alternative school or alternative program if there is space and staff available. Attendance in an alternative school or alternative program shall be voluntary for students in grades one through six (1-6) who have been suspended or expelled from the regular school program unless the local board of education adopts a policy mandating attendance in either instance. The student shall be subject to all rules pertaining thereto. A violation of the rules by a student may result in the student's removal from this school for the duration of the original suspension or expulsion, but shall not constitute grounds for any extension of the original suspension or expulsion. The final decision on removal shall be made by the chief administrator of the alternative school.

(d) Any student attending an alternative school shall continue to earn state education funds in the student's home school system and shall be counted for all school purposes by that system as if still in attendance there.

(e) A pupil who has been properly found to be eligible for special education and related services shall be placed and served in accordance with the laws and rules relating to special education.

(f)(1) The state board of education, in its rules and regulations for the operation of alternative schools, shall require documentation of the reasons for a student attending an alternative school and provide safeguards to assure that no child with disabilities or other special student is arbitrarily placed in an alternative school. The state board of education, in its rules and regulations, shall require that all alternative school classrooms have working two-way communication systems making it possible for teachers or other employees to notify a principal, supervisor or other administrator that there is an emergency. Teachers and other employees shall be notified of emergency procedures prior to the beginning of classes for any school year.

(2) The state board of education shall provide a curriculum for alternative schools to ensure students receive specialized attention needed to maximize student success. Alternative schools shall offer alternative learning environments in which students are offered a variety of educational opportunities, such as learning at different rates of time or utilizing different, but successful, learning strategies, techniques and tools.

(g) Notwithstanding this section or other law to the contrary, local boards of education may establish evening alternative schools for students in grades six through twelve (6-12).

(h)(1) LEAs establishing alternative schools or contracting for the operation of alternative schools shall develop and implement formal transition plans for the integration of students from regular schools to alternative schools and from alternative schools to regular schools. The plans shall be targeted to improve communication between regular and alternative school staff, provide professional development opportunities shared by regular school staff and alternative school staff, align curricula between regular schools and alternative schools, develop quality in-take procedures for students returning to regular school and provide student follow-up upon return to regular school.

(2) The state board of education shall adopt policies or guidelines to assist LEAs in developing transition plans.

49-6-3404. Advisory council for alternative education.

(a) There is established an advisory council for alternative education that shall advise, assist and consult with the governor, the commissioner of education and the state board of education.

(b)(1) The advisory council shall be composed of a maximum of ten (10) members, including parents of children attending alternative schools or who have attended alternative schools, teachers or principals serving in alternative schools, members of local boards of education, at least one (1) community representative concerned with alternative education and at least one (1) representative of an educators' association concerned with alternative education.

(2) The governor shall appoint the members of the advisory council for three-year terms, except for the appointment of the initial members. In appointing the initial members to the advisory council, each member shall be designated as filling an odd-numbered seat or an even-numbered seat. The members appointed to the odd-numbered seats shall serve three-year terms and the members appointed to the even-numbered seats shall serve two-year terms.

852

(3) Vacancies shall be filled for an unexpired term in the same manner as original appointments.

(c)(1) The advisory council shall elect its own chair and vice chair annually.

(2) A representative of the commissioner of education shall meet with and act as secretary to the advisory council. The commissioner, within available personnel and appropriations, shall furnish meeting facilities and staff services for the advisory council.

(d) All members of the advisory council shall serve without compensation, but shall be eligible for reimbursement for travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(e) The advisory council shall:

(1) Consider any issue, problem or matter related to alternative education presented to it by the governor, the commissioner or the state board of education, and give advice on any issue, problem or matter;

(2) Study proposed plans for alternative education programs or curricula to determine if the plans or curricula should be adopted;

(3) Study alternative education programs or curricula implemented in Tennessee school systems to determine the effectiveness of the programs or curricula, and alternative education programs or curricula implemented in other states to determine if the programs or curricula should be adopted in Tennessee schools;

(4) Consider rules of governance of alternative schools and make recommendations concerning rules of governance; and

(5) Make an annual report to the governor, the education committee of the senate, the education committee of the house of representatives, the commissioner of education and the state board of education on the state of alternative education in this state. The report shall be submitted prior to February 1 each year.

49-6-4002. Discipline policy — Code of conduct.

(a) Each local board of education and charter school governing body shall adopt a discipline policy to apply to the students in each school operated by the LEA or charter school governing body.

(b) The director of schools or head of the charter school is responsible for overall implementation and supervision, and each school principal is responsible for administration and implementation of a code of conduct within the principal's school.

(c) In developing a discipline policy, the local board of education or charter school governing body shall seek recommendations from parents, employees of the LEA or charter school, law enforcement personnel, and youth-related agencies in the community.

(d) Each discipline policy or code of conduct must contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged. Each policy must address:

(1) Language used by students;

(2) Respect for all school employees;

(3) Fighting, threats, bullying, cyberbullying, and hazing by students;

- (4) Possession of weapons on school property or at school functions;
 - (5) Transmission by electronic device of any communication containing a credible threat to cause bodily injury or death to another student or school employee;
 - (6) Damage to the property or person of others;
 - (7) Misuse or destruction of school property;
 - (8) Sale, distribution, use, or being under the influence of drugs, alcohol, or drug paraphernalia;
 - (9) Student conduct on school property, conduct in classes, and conduct on school buses; and
 - (10) Other subjects that a local board of education or a charter school governing body chooses to include.
- (e) Each local discipline policy must indicate that the following offenses are zero tolerance offenses:
- (1) Unauthorized possession on school property of a firearm, as defined in 18 U.S.C. § 921;
 - (2) Aggravated assault as defined in § 39-13-102 upon any teacher, principal, administrator, any other employee of an LEA, or a school resource officer;
 - (3) Assault that results in bodily injury as defined in § 39-13-101(a)(1) upon any teacher, principal, administrator, any other employee of an LEA, or a school resource officer; and
 - (4) Unlawful possession of any drug, including any controlled substance, as defined in §§ 39-17-402 — 39-17-415, controlled substance analogue, as defined by § 39-17-454, or legend drug, as defined by § 53-10-101 on school grounds or at a school-sponsored event.
- (f) Each local board of education and charter school governing body may adopt a discipline policy that promotes positive behavior and includes evidence-based practices to respond effectively to misbehavior and minimize a student's time away from school.
- (g) Each discipline policy or code of conduct must state that a teacher, principal, school employee, or school bus driver may use reasonable force in compliance with § 49-6-4107.

49-6-4109. Trauma-informed discipline policy.

- (a) As a strategy to address adverse childhood experiences, as defined in § 49-1-230, each LEA and public charter school shall adopt a trauma-informed discipline policy. Each trauma-informed discipline policy must:
- (1) Balance accountability with an understanding of traumatic behavior;
 - (2) Teach school and classroom rules while reinforcing that violent or abusive behavior is not allowed at school;
 - (3) Minimize disruptions to education with an emphasis on positive behavioral supports and behavioral intervention plans;
 - (4) Create consistent rules and consequences; and
 - (5) Model respectful, nonviolent relationships.
- (b) The department of education shall develop guidance on trauma-informed discipline practices that LEAs must use to develop the policy required under subsection (a).

854

49-6-4214. [Repealed.]

49-6-4216. [Repealed.]

49-6-4217. Employment standards for school resource officers.

(a) Training courses for school resource officers shall be designed specifically for school policing and shall be administered by an entity or organization approved by the peace officers standards and training (POST) commission.

(b) School resource officers shall participate in forty (40) hours of basic training in school policing within twelve (12) months of assignment to a school. Every year thereafter they shall participate in a minimum of sixteen (16) hours of training specific to school policing that has been approved by the POST commission.

(c) [Deleted by 2019 amendment.]

49-6-4302. Tennessee school safety center.

(a) The department of education shall establish a Tennessee school safety center to develop and evaluate training materials and guidelines on school safety issues, including behavior, discipline and violence prevention.

(b) The Tennessee school safety center is responsible for the collection and analysis of data related to school safety, including alleged violent or assaultive acts against school employees and students. The center shall make periodic reports to the education committee of the senate and the education committee of the house of representatives on the status of school safety efforts.

(c)(1) The Tennessee school safety center, within the limit of appropriations for the center, shall establish school safety grants to assist LEAs in funding programs that address school safety, including, but not limited to, innovative violence prevention programs, conflict resolution, disruptive or assaultive behavior management, improved school security, school resource officers, school safety officers, peer mediation, and training for employees on the identification of possible perpetrators of school-related violence.

(2) The Tennessee school safety center shall develop a school safety grant application that requires LEAs to describe, at a minimum, how grant funds:

(A) Will be used to improve and support school safety;

(B) Align with the needs identified in a school security assessment conducted pursuant to subsection (f); and

(C) Will be used to support LEA-authorized charter schools, if applicable.

(3) In order to be eligible to receive grant funds, the LEA must be in compliance with all state laws, rules, and regulations regarding school safety.

(4) The Tennessee school safety center shall review the school safety grant application in collaboration with the state-level school safety team established under § 49-6-802.

(d) The grants provided for in subdivision (c)(1) must be distributed according to the following funding model:

(1) Funding is available to each LEA in the same percentage that the LEA's share of basic education program (BEP) funding bears to statewide BEP funding;

(2) Funding is subject to a twenty-five percent (25%) match by the LEA, adjusted for the LEA's fiscal capacity under the BEP formula. The match

requirement may be satisfied by local or contributed funds or by personnel or other in-kind expenses assumed by the LEA. An LEA may use funds derived from local taxes levied for school operation and maintenance purposes, as described in § 49-3-315, to satisfy the match requirement. This subdivision (d)(2) does not require apportionment of funds under § 49-3-315 for any school safety measure identified in the LEA's school safety grant application and for which the LEA uses school funds to provide the required match; and

(3) Any funds appropriated for this program in any fiscal year that are not expended must be carried forward for program purposes in future fiscal years. Any allocation for an LEA that is not applied for, or that is not successfully applied for in any fiscal year, shall not be carried forward for the benefit of that LEA in subsequent fiscal years, but must instead be carried forward for future expenditures under this program in future fiscal years.

(e) The Tennessee school safety center shall reserve moneys to fund school safety grants for LEAs with schools that did not have a full-time school resource officer during the 2018-2019 school year and that submit a school safety grant application describing the LEA's intent to utilize the grant for school resource officers, and to that end, the center shall prioritize school safety grants based on such applications. Any reserve funding awarded pursuant to this subsection (e) is subject to a twenty-five percent (25%) match by the LEA, adjusted for the LEA's fiscal capacity under the BEP formula, and must be available for school safety grants awarded for the 2019-2020 and 2020-2021 fiscal years. Any reserve funds that are not awarded pursuant to this subsection (e) must be reallocated in accordance with subsection (d).

(f) The department of safety and homeland security, in collaboration with the department of education, shall develop a school security assessment for use in Tennessee public schools. The departments shall provide training to local law enforcement agencies and school administrators on the use of the school security assessment to identify school security vulnerabilities. The department of safety and homeland security is authorized to conduct periodic audits of Tennessee public schools as necessary to verify the effective implementation and use of such assessments to enhance school security.

(g) Information regarding the use and effectiveness of grants awarded under this section must be included in the Schools Against Violence in Education (SAVE) Act report required under § 49-6-810.

(h) LEAs are authorized to act in partnership with local law enforcement agencies for the purpose of hiring school resource officers under the state grant program set forth in § 38-8-115.

49-6-4503. Adoption of policy prohibiting harassment, intimidation, bullying or cyber-bullying by the school district.

(a) Each school district shall adopt a policy prohibiting harassment, intimidation, bullying or cyber-bullying. School districts are encouraged to develop the policy after consultation with parents and guardians, school employees, volunteers, students, administrators and community representatives.

(b) School districts shall include in the policies:

(1) A statement prohibiting harassment, intimidation, bullying or cyber-bullying;

(2) A definition of harassment, intimidation, bullying or cyber-bullying;

(3) A description of the type of behavior expected from each student;

(4) A statement of the consequences and appropriate remedial action for a person who commits an act of harassment, intimidation, bullying or cyber-bullying;

(5) A procedure for reporting an act of harassment, intimidation, bullying or cyber-bullying, including a provision that permits a person to report an act of harassment, intimidation, bullying or cyber-bullying anonymously. Nothing in this section may be construed to permit formal disciplinary action solely on the basis of an anonymous report;

(6) A procedure for the prompt and immediate investigation when an act of harassment, intimidation, bullying, or cyber-bullying is reported to the principal, the principal's designee, teacher, or school counselor. The principal or the principal's designee shall initiate the investigation within forty-eight (48) hours of receipt of the report, unless the need for more time is appropriately documented, and the principal or the principal's designee shall initiate an appropriate intervention within twenty (20) calendar days of receipt of the report, unless the need for more time is appropriately documented;

(7) A statement of the manner in which a school district shall respond after an act of harassment, intimidation, bullying or cyber-bullying is reported, investigated and confirmed;

(8) A statement of the consequences and appropriate remedial action for a person found to have committed an act of harassment, intimidation, bullying or cyber-bullying;

(9) A statement prohibiting reprisal or retaliation against any person who reports an act of harassment, intimidation, bullying or cyber-bullying and stating the consequences and appropriate remedial action for a person who engages in such reprisal or retaliation;

(10) A statement of the consequences and appropriate remedial action for a person found to have falsely accused another of having committed an act of harassment, intimidation, bullying or cyber-bullying as a means of reprisal or retaliation or as a means of harassment, intimidation, bullying or cyber-bullying;

(11) A statement of how the policy is to be publicized within the district, including a notice that the policy applies to behavior at school-sponsored activities;

(12) The identification by job title of school officials responsible for ensuring that the policy is implemented;

(13) A procedure for discouraging and reporting conduct aimed at defining a student in a sexual manner or conduct impugning the character of a student based on allegations of sexual promiscuity; and

(14) A procedure for a referral for appropriate counseling and support services for students involved in an act of harassment, intimidation, bullying, or cyber-bullying, when deemed necessary by the principal. The counseling and support services may be conducted by school counseling personnel who are appropriately trained, such as psychologists, social workers, school counselors, or any other personnel or resources available.

(c)(1) Each LEA shall, at the beginning of each school year, provide teachers and school counselors a copy of the policy along with information on the policy's implementation, bullying prevention and strategies to address bullying and harassment when it happens. In addition, each LEA shall provide training to teachers and counselors regarding the policy and

appropriate procedures relative to implementation of the policy. The department of education shall provide guidelines for such training and provide recommendations of appropriate, available and free bullying and harassment prevention resources.

(2) Each LEA shall also:

(A) At the beginning of the school year, make available to students and parents information relative to bullying prevention programs to promote awareness of the harmful effects of bullying and to permit discussion with respect to prevention policies and strategies;

(B) Beginning August 1, 2016, and annually thereafter, complete and submit a report to the department of education. The report shall be in a format provided by the department and shall include:

(i) The number of harassment, intimidation, bullying, or cyber-bullying cases brought to the attention of school officials during the preceding year;

(ii) The number of harassment, intimidation, bullying, or cyber-bullying cases where the investigation supported a finding that bullying had taken place;

(iii) The number of harassment, intimidation, bullying, or cyber-bullying case investigations not initiated within forty-eight (48) hours of the receipt of the report and the reason the investigation was not initiated within forty-eight (48) hours;

(iv) The number of harassment, intimidation, bullying, or cyber-bullying cases where an appropriate intervention was not initiated within twenty (20) calendar days of receipt of the report and the reason the intervention took longer than twenty (20) calendar days to initiate; and

(v) The type of harassment, intimidation, bullying, or cyber-bullying identified and manner in which the harassment, intimidation, bullying, or cyber-bullying cases were resolved, including any disciplinary action against the student who was harassing, intimidating, bullying, or cyber-bullying.

(3) The department shall annually submit a report to the education committee of the house of representatives and the education committee of the senate updating membership on the number of harassment, intimidation, bullying, or cyber-bullying cases reported statewide, the number of LEAs implementing this part, the status of any investigations, including disciplinary actions against students, and any other information relating to the subjects of harassment, intimidation, bullying, or cyber-bullying as will be helpful to the committees in establishing policy in this area.

(d)(1) The principal of a middle school, junior high school, or high school, or the principal's designee, shall investigate harassment, intimidation, bullying or cyber-bullying when a student reports to any principal, teacher or guidance counselor that physical harm or a threat of physical harm to such student's person or property has occurred.

(2) The principal, or the principal's designee, shall immediately inform the parent or legal guardian of a student involved in an act of harassment, intimidation, bullying, or cyber-bullying. The principal or the principal's designee shall inform the parents or legal guardians of the students of the availability of counseling and support services that may be necessary.

(3) Following any investigation required by this part, the principal or such principal's designee shall report the findings, along with any disciplin-

858

ary action taken, to the director of schools and the chair of the local board of education.

49-6-4505. Reprisal or retaliation prohibited — Reporting harassment, intimidation, bullying or cyber-bullying — Immunity from damages.

(a) A school employee, student or volunteer may not engage in reprisal or retaliation against a victim of, witness to, or person with reliable information about an act of harassment, intimidation, bullying or cyber-bullying.

(b) A school employee, student or volunteer who witnesses or has reliable information that a student has been subjected to an act of harassment, intimidation, bullying or cyber-bullying is encouraged to report the act to the appropriate school official designated by the school district's policy.

(c) A school employee who promptly reports an act of harassment, intimidation, bullying or cyber-bullying to the appropriate school official in compliance with the procedures set forth in the school district's policy is immune from a cause of action for damages arising from any failure to remedy the reported act.

(d) Notwithstanding subsections (b) and (c), a school employee, student or volunteer who witnesses or possesses reliable information that a student has transmitted by an electronic device any communication containing a credible threat to cause bodily injury or death to another student or school employee shall report such information to the appropriate school official designated by the policy of the school district. Such school official shall make a determination regarding the administration of the report.

49-6-5001. General provisions.

(a) The commissioner of health is authorized, subject to the approval of the public health council, to designate diseases against which children must be immunized prior to attendance at any school, nursery school, kindergarten, preschool or child care facility of this state.

(b)(1) It is the responsibility of the parents or guardian of children to have their children immunized, as required by subsection (a).

(2) In the absence of an epidemic or immediate threat of an epidemic, this section shall not apply to any child whose parent or guardian files with school authorities a signed, written statement that the immunization and other preventive measures conflict with the parent's or guardian's religious tenets and practices, affirmed under the penalties of perjury.

(c)(1) No children shall be permitted to attend any public school, nursery school, kindergarten, preschool or child care facility until proof of immunization is given the admissions officer of the school, nursery school, kindergarten, preschool or child care facility except as provided in subsection (b).

(2) No child shall be denied admission to any school or school facility if the child has not been immunized due to medical reasons if the child has a written statement from the child's doctor excusing the child from the immunization.

(3) No child or youth determined to be homeless shall be denied admission to any school or school facility if the child or youth has not yet been immunized or is unable to produce immunization records due to being

homeless. The enrolling school shall comply with any and all federal laws pertaining to the educational rights of homeless children and youth, including the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11431 et seq.).

(d) Each child attending any school, nursery school, kindergarten, preschool or child care facility without furnishing proof of immunization or exception under subsection (b) or (e), shall not be counted in the average daily attendance of students for the distribution of state school funds.

(e) Any immunization specified under this part shall not be required if a qualified physician certifies that administration of the immunization would be in any manner harmful to the child involved.

(f) The commissioner shall promulgate rules and regulations necessary to carry out this section.

(g) By October 1 of each year, the commissioner shall report the number of children in the state during the preceding school year who were determined to be homeless and who enrolled in public schools without being immunized or being able to produce immunization records and the average length of time required for these children to be immunized or to obtain their immunization records. The report shall be submitted to the education committee of the senate and the education committee of the house of representatives.

49-6-6006. Teacher endorsement for course requiring end of course examination to satisfy graduation requirements — Exception.

A teacher shall not teach a course in which an end of course examination is required for students to satisfy graduation requirements established by the state board of education pursuant to § 49-6-6001(a) if the teacher's license does not carry a subject specific endorsement for the subject area of the course, unless the teacher demonstrates sufficient content knowledge in the course material by taking and passing, at the teacher's own expense, a standardized or criterion-referenced test for the content area.

49-6-6011. Limitations on new statewide assessments.

(a) Notwithstanding any other law, the department of education and the state board of education are prohibited from mandating any statewide assessments for any grades or subjects beyond those assessments required as of the 2016-2017 school year until the 2020-2021 school year. The department shall ensure all data associated with existing assessments is accurate and timely.

(b) This section does not apply to assessments required by federal law, assessments required for the implementation of response to instruction and intervention, or to required field tests, or prohibit LEAs from voluntarily participating in assessments developed by the department of education or prohibit LEAs from requiring district-approved assessments.

(c) The department of education shall report to the education committee of the senate and the education committee of the house of representatives all actions or procedures that have been implemented to ensure all data associated with existing assessments is accurate and timely.

860

49-6-6013. Administration of TCAP tests in paper format — Online verification test.

Tennessee comprehensive assessment program (TCAP) tests administered in the 2019-2020 school year must be administered in paper format. Before TCAP tests are administered in the 2020-2021 school year, each LEA shall participate in an online verification test conducted by the department of education. The commissioner of education shall determine, based on the results of the online verification test, the format for TCAP tests administered in the 2020-2021 school year.

49-6-7007. [Repealed.]

49-6-7008. [Repealed.]

49-6-7009. [Repealed.]